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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[CN–96–008]

Cotton Research and Promotion Program: Determination of Sign-Up Eligibility, and Procedure for the Conduct of a Sign-Up Period for Determination of Whether To Conduct a Referendum Regarding the 1990 Amendments to the Cotton Research and Promotion Act

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes procedures for the conduct of a sign-up period during which eligible cotton producers and importers will be offered the opportunity to request a continuance referendum on the 1991 amendments to the Cotton Research and Promotion Order (Order). Producers will be provided the opportunity to sign up to request a referendum in person at the Farm Services Agency (FSA) office that serves the county where their farm is located. All known and eligible importers will be mailed information about the sign-up period, along with a written request form that those persons who favor the conduct of a continuance referendum may complete and return to USDA.

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, Chief, Cotton Research and Promotion Staff, telephone number (202) 720–2259, facsimile (202) 690–1718.

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

Executive Orders 12866 and 12988; the Regulatory Flexibility Act and the Paperwork Reduction Act

This rule has been determined to be ''not significant'' for purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget (OMB).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not in accordance with laws, and requesting a modification of the order or an exemption therefrom. Such persons are given the opportunity for a hearing after which the Secretary shall issue a ruling on the petition. The Act provides that the District Court of the United States in any district where the petitioner resides, or where the petitioner's principal place of business is located, has jurisdiction to review the Secretary's ruling, provided that the petitioner files a complaint for that purpose within 20 days from the date of the issuance of the Secretary's ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service (AMS) has considered the economic effect of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

The majority of producers and importers subject to the Order are small businesses under the criteria established by the Small Business Administration.

Only those eligible persons who are in favor of conducting a referendum will participate in the sign-up period. Of the 46,220 valid ballots received in the 1991 referendum, 27,879, or 60 percent, favored the amendments to the Order, and 18,341, or 40 percent, opposed the amendments to the Order. This rule will provide to those persons who are against the continuance of the Order amendments an opportunity to request a continuance referendum.

The eligibility and participation requirements set forth in this rule are substantially the same as the rules that established the eligibility and participation requirements for the 1991 referendum.

These sign-up procedures will not impose a substantial burden or have a significant impact on persons subject to the Order, because participation is not mandatory, not all persons subject to the Order are expected to participate, and USDA will determine producer and importer eligibility.

In compliance with OMB regulations [5 CFR Part 1320], which implement the Paperwork Reduction Act (PRA) [44 U.S.C. 3501 *et seq.*], the information collection requirements contained in 7 CFR 1205 have been previously approved by OMB and were assigned OMB number 0581–0093, except Board member nominee information sheets are assigned OMB number 0505–001.

Background

Following the July 1991 referendum, AMS implemented amendments to the Order. These amendments provided for: (1) importer representation on the Cotton Board by an appropriate number of persons, to be determined by the Secretary, who import cotton or cotton products into the U.S., and whom the Secretary selects from nominations submitted by importer organizations certified by the Secretary; (2) assessments levied on imported cotton and cotton products at a rate determined in the same manner as for U.S. cotton; (3) increasing the amount the Secretary can be reimbursed for the conduct of a referendum from $200,000 to $300,000; (4) reimbursing government agencies that assist in administering the collection of assessments on imported cotton and cotton products; and (5) terminating the right of producers to demand a refund of assessments.

On October 8, 1996, in accordance with the Act, USDA issued a determination, (61 FR 52772) based on a review report of the Cotton Research and Promotion Program, not to conduct a referendum regarding the 1991 amendments to the Order. Because the review report noted that certain program participants were in favor of conducting

a referendum, USDA is providing an opportunity for all eligible persons to request the conduct of a continuance referendum on the 1991 amendments by making such a request during a sign-up period.

The sign-up period will be provided for all eligible producers and importers in accordance with section 8(c)2 of the Act. Cotton producers will be provided the opportunity to sign- up to request a continuance referendum in person at the FSA office that serves the county where their farm is located.

USDA will mail sign-up information, including a written request form, to all known, eligible, cotton importers. Importers who favor the conduct of a continuance referendum should return their signed request forms to USDA, FSA, DAPDFO, STOP 0539, Attention: William A. Brown, Box 2415, Room 3096–s, 1400 Independence Ave. S.W., Washington, D.C., 20250–0539.

Importers who do not receive a request form in the mail by February 1, 1997, and who meet the eligibility requirements to participate in the sign-up, may submit a written, signed, request for a continuance referendum. Such request must be accompanied by a copy of a U.S. Customs form 7501 showing payment of a cotton assessment for calendar year 1995. Requests and supporting documentation should be mailed to USDA, FSA, DAPDFO, STOP 0539, Attention: William A. Brown, Box 2415, Room 3096–s, 1400 Independence Ave. S.W., Washington, D.C., 20250–0539.

The sign-up period is from January 15, 1997, through April 14, 1997. The October 8, 1996, Federal Register notice (61 FR 52772) stated that the sign-up period would be from November 25, 1996, through February 22, 1997. USDA has changed the sign-up to January 15, 1997, through April 14, 1997, to allow USDA to better prepare for the sign-up period.

Section 8(c)2 of the Act requires that if the Secretary determines, based on the results of the sign-up, that at least 10 percent (4,622) or more of the number of cotton producers and importers that voted in the 1991 referendum request a continuance referendum on the 1991 amendments, such a referendum will be held within 12 months after the end of the sign-up period. In counting such requests, however, not more than 20 percent may be from producers from any one state or from importers of cotton.

For example, when counting the requests, AMS Cotton Division will determine the total number of valid requests from all cotton-producing states and from importers. No more than 20 percent of the total requests will be counted from any one state or from importers toward reaching the 10 percent or 4,622 total signatures required to call for a referendum.

If the Secretary determines that fewer than 10 percent of the number of producers and importers who voted in the most recent referendum do not favor a continuance referendum, no referendum will be held.

A proposed rule with a request for comments was published in the Federal Register (61 FR 64640) on December 6, 1996. One response, on behalf of an organization that represents importers, was received by USDA.

The respondent favored the proposed procedures for the conduct of the sign-up period, specifically the proposal to mail to all eligible importers of cotton products necessary information and a form by which they may indicate their interest in a referendum.

This rule adds a new subpart to establish procedures for use during the sign-up period, and these procedures will be in effect only for the duration of the sign-up period. Accordingly, this rule is adopted without change.

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 7, chapter XI of the Code of Federal Regulations is amended to read as follows:

1. In Part 1205, a new subpart is added to read as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

Subpart—Procedures for Conduct of Sign-up Period

Definitions

Procedures.

Authority: 7 U.S.C. 2101–2118.

Definitions

§ 1205.10 Act.

The term Act means the Cotton Research and Promotion Act, as amended [7 U.S.C 2101–2118; Public Law 89–502, 80 Stat 279, as amended].

§ 1205.11 Administrator.

The term *Administrator* means the Administrator of the Agricultural Marketing Service, or any officer or employee of USDA to whom authority has been delegated to act in the Administrator's stead.

§ 1205.12 Cotton.

The term *cotton* means all Upland cotton harvested in the United States and all imports of Upland cotton, including the Upland cotton content of products derived thereof. The term *cotton* does not include imported cotton for which the assessment is less than the *de minimis* assessment established by regulations.

§ 1205.13 Upland cotton.

The term *Upland cotton* means all cultivated varieties of the species *Gossypium hirsutum L.*

§ 1205.14 Department.

The term *Department* means the U.S. Department of Agriculture.

§ 1205.15 Farm Service Agency.

The term *Farm Service Agency*—formerly Agricultural Stabilization and Conservation Service (ASCS)—also referred to as ''FSA,'' means the Farm Service Agency of the Department.

§ 1205.16 Order.

The term *Order* means the Cotton Research and Promotion Order.

§ 1205.17 Person.

The term *person* means any individual 18 years of age or older, or any partnership, corporation, association, or any other entity.

§ 1205.18 Producer.

The term *producer* means any person who shares in a cotton crop, or in the proceeds thereof, as an owner of the farm, cash tenant, landlord of a share tenant, share tenant, or sharecropper.

§ 1205.19 Importer.

The term *importer* means any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States, and the term import means any such entry.

§ 1205.20 Representative period.

The term *representative period* means the 1995 calendar year.

§ 1205.21 Secretary.

The term *Secretary* means the Secretary of Agriculture of the United States, or any other officer or employee of the Department to whom authority has been delegated to act in the Secretary's stead.

§ 1205.22 State.

The term *State* means each of the 50 states.

§ 1205.23 United States.

The term *United States* means the 50 states of the United States of America.

Procedures

§ 1205.24 General.

A sign-up period will be conducted to determine whether eligible producers and importers favor the conduct of a referendum on the continuance of the 1991 amendments to the Order.

(a) If the Secretary determines, based on the results of the sign-up period, that at least 10 percent (4,622) or more of the number of cotton producers and importers who voted in the 1991 referendum request the conduct of a continuance referendum on the 1991 Order amendments, a referendum will be held within 12 months after the end of the sign-up period. Not more than 20 percent of the total requests counted toward the 10 percent figure may be from producers from any one state or from importers of cotton.

(b) If the Secretary determines that fewer than 10 percent (4,622) of the number of producers and importers who voted in the 1991 referendum do not favor a continuance referendum, no referendum will be held.

§ 1205.25 Supervision of sign-up period.

The Administrator shall be responsible for conducting the sign-up period in accordance with this subpart.

§1205.26 Eligibility.

Only persons who meet the eligibility requirements in this subpart may participate in the sign-up period. No person is entitled to sign up more than once.

(a) Except as set forth in paragraphs (b) and (c) of this section, the following persons are eligible to request the conduct of a continuance referendum:

(1) any person who was engaged in the production of Upland cotton during calendar year 1995; and

(2) any person who was an importer of Upland cotton and imported Upland cotton in excess of the *de minimis* assessment value of $2.00 per line item entry during calendar year 1995.

(b) A general partnership is not eligible to request a continuance referendum, however, the individual partners of an eligible general partnership are each entitled to submit a request.

(c) Where a group of individuals is engaged in the production of Upland cotton under the same lease or cropping agreement, only the individual or individuals who signed or entered into the lease or cropping agreement are eligible to participate in the sign-up period. Individuals who are engaged in the production of Upland cotton as joint tenants, tenants in common, or owners of community property, are each entitled to submit a request if they share in the proceeds of the required crop as owners, cash tenants, share tenants, sharecroppers or landlords of a fixed rent, standing rent or share tenant.

(d) An officer or authorized representative of a qualified corporation or association may submit a request on behalf of that corporation or association.

(e) A guardian, administrator, executor, or trustee of any qualified estate or trust may submit a request on behalf of that estate or trust.

(f) An individual may not submit a request on behalf of another individual.

§ 1205.27 Participation in the sign-up period.

The sign-up period will be from January 15, 1997, through April 14, 1997. Those persons who favor the conduct of a continuance referendum and who wish to request that USDA conduct such a referendum may do so by submitting such request in accordance with this section. All requests must be received by the appropriate USDA office by April 14, 1997.

(a) Before the sign-up period begins, FSA shall establish a list of known, eligible, Upland cotton producers at each county office serving counties where cotton is produced, and shall also establish a list of known, eligible Upland cotton importers.

(b) Before the start of the sign-up period, USDA shall mail a request form to each known, eligible, cotton importer. Importers who wish to request a referendum and who do not receive a request form in the mail by February 1, 1997, may participate in the sign-up period by submitting a signed, written, request for a continuance referendum, along with a copy of a U.S. Customs form 7501 showing payment of a cotton assessment for calendar year 1995. Importers must submit their requests and supporting documents to USDA, FSA, DAPDFO, STOP 0539, Attention: William A. Brown, P.O. Box 2415, Room 3096-s, 1400 Independence Ave. S.W., Washington, D.C., 20250–0539. All requests and supporting documents must be received by the appropriate FSA office by April 14, 1997.

(c) Producers must request a continuance referendum by signing up in person at the county FSA office that serves the county where the producer's farm is located. A producer who wishes to request a referendum and whose name does not appear on the cotton producer list at the appropriate county FSA office may participate in the sign-up period by submitting a signed, written, request for a continuance referendum, along with a copy of a sales receipt for cotton produced during 1995. All requests and supporting documentation must be received by the appropriate FSA office by April 14, 1997.

§ 1205.28 Counting.

County FSA offices and FSA, Deputy Administrator for Program Delivery and Field Operations (DAPDFO), shall begin counting requests no later than April 15, 1997. FSA shall determine the number of eligible persons who favor the conduct of a continuance referendum.

§ 1205.29 Reporting results.

(a) Each county FSA office shall prepare and transmit to the state FSA office, by April 23, 1997, a written report of the number of eligible producers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(b) DAPDFO shall prepare, by April 23, 1997, a written report of the number of eligible importers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(c) Each state FSA office shall, by April 30, 1997, forward all county reports, and DAPDFO shall, by April 30, 1997, forward its report of importer requests, to the Director, Cotton Division, AMS, STOP 0224, 1400 Independence Avenue, SW, Washington, D.C., 20250–0224.

(d) The Chief of the Research and Promotion Staff, Cotton Division, shall prepare a report of the requests received, including the number of eligible persons who requested the conduct of a referendum, and the number of ineligible persons who made requests, to the Director of the Cotton Division, and shall maintain one copy of the report where it will be available for public inspection for a period of 5 years following the end of the sign-up period.

(e) The Director of the Cotton Division shall prepare and submit to the Secretary a report of the results of the sign-up period. The Secretary will conduct a referendum if requested by 10 percent or more of the number of cotton producers and importers voting in the most recent (July 1991) referendum, but not more than 20 percent of the total requests counted toward the 10 percent figure may be from producers in any one state or from importers of cotton. The Secretary shall announce the results of the sign-up period in a separate notice in the Federal Register.

§ 1205.30 Instructions and forms.

The Administrator is hereby authorized to prescribe additional instructions and forms consistent with the provisions of this subpart to govern conduct of the sign-up period.

Dated: January 7, 1997.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 97–766 Filed 1–10–97; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 150 and 170

RIN 3150–AF49

Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to clarify that Agreement State licensees can seek reciprocal recognition of their license from the NRC when they are working within areas of exclusive Federal jurisdiction in Agreement States. The amendment also clarifies NRC regulatory requirements for reciprocity and the appropriate fees and filing procedures applicable to Agreement State licensees operating under reciprocity.

EFFECTIVE DATE: February 27, 1997.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1623, e-mail HHN@nrc.gov or Mark Haisfield, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6196, e-mail MFH@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1996 (61 FR 30839), the NRC published a proposed rule in the Federal Register that would clarify that Agreement State licensees could seek reciprocal recognition of their license from the NRC when they are working within areas of exclusive Federal jurisdiction in Agreement States. Current regulations, subject to certain restrictions, allow any person who holds a specific license from an Agreement State to conduct activities permitted by that license in non-Agreement States and offshore waters using an NRC general license. The general license is granted under the authority contained in 10 CFR 150.20, ''Recognition of Agreement State Licenses.'' To meet the requirements of §150.20, a licensee must submit an NRC Form 241 at least 3 days before engaging in the activities (subject to some exceptions as noted in §150.20). If an Agreement State licensee does not qualify for a general license under §150.20, the licensee must apply for and obtain a specific license to work in areas of NRC jurisdiction.

Need for Regulatory Action

The NRC believes that there are several problems with the current regulations in §150.20 that necessitated this rulemaking action. First, the current regulation does not include provisions to allow Agreement State licensees to qualify for an NRC general license when operating in areas of exclusive Federal jurisdiction within Agreement States. Second, there has been some confusion regarding the NRC regulations applicable to Agreement State licensees operating in areas of NRC jurisdiction pursuant to §150.20. Third, §150.20 does not reference the appropriate fee requirements applicable to Agreement State licensees who file an NRC Form 241, ''Report of Proposed Activities in Non-Agreement States.'' Finally, there has been some confusion regarding the filing procedures for this form.

Comments on the Proposed Rule

The Commission received one letter commenting on the proposed rule. A copy of the letter is available for public inspection and copying for a fee at the Commission's Public Document Room, located at 2120 L Street, NW (Lower Level), Washington, DC.

Comment. The commenter indicated that NRC's overall system of reciprocity is flawed because state regulatory agencies do not have meaningful investigatory or enforcement powers to regulate licensees operating under reciprocity. In addition, the commenter believes that the current reciprocity system reduces the participation of citizens in the regulatory process because the regulatory agency in this commenter's state does not, in the commenter's view, exert adequate regulatory authority over licensees operating under reciprocity.

The commenter also had several specific objections to the proposed rule. The commenter indicated that this rulemaking will reduce recordkeeping requirements because of certain language changes proposed regarding recordkeeping at the licensee's Agreement State office. In addition, the commenter believes that the rule will remove a variety of requirements including existing fee requirements, the existing 3-day advance deadline for filing with the Commission, and existing reporting and compliance requirements applicable to radiographers. Finally, the commenter believes that the rulemaking inappropriately broadens the authority of NRC Regional Administrators to grant, by telephone, a waiver of the 3-day filing requirement before starting work under the general license.

Response. The NRC has full enforcement and inspection authority to regulate the activities of Agreement State licensees operating under reciprocity in areas of NRC jurisdiction. Agreement State licensees operating under reciprocity must comply with all of NRC's regulatory requirements. As such, the Commission believes that an appropriate avenue for citizen access in addressing issues of reciprocity is the NRC itself. If an individual has safety concerns about the conduct of a licensee operating under reciprocity, that individual should contact NRC and their concerns will be addressed through NRC's allegation review process.

Contrary to the commenter's claims that this rulemaking involves more than a clarification, it is noted that the proposed rule either codifies current NRC regulatory practice (with respect to reciprocity in areas of exclusive Federal jurisdiction) or clarifies existing requirements applicable to licensees operating under reciprocity in areas of NRC jurisdiction. While this rulemaking may facilitate increased use of this general license provision, the Commission does not view this as a concern given the full regulatory power that NRC has over these licensees with respect to activities conducted under reciprocity.

As to the commenter's specific concerns, the Commission notes that this rulemaking will not effect the reporting requirements in §150.20. Language in §150.20(a) has been clarified to indicate that, in order to qualify for the general license, a person must have a specific license from an Agreement State where the licensee maintains an office for directing the licensed activity and for retaining radiation safety records. These editorial changes clarify, but do not alter any existing recordkeeping requirements. The addition of language in this rulemaking related to fees simply serves to provide additional notice to licensees that certain fee requirements in 10 CFR Part 170 apply to Agreement State licensees operating under reciprocity. This rulemaking does not remove or alter existing fee requirements.

Similarly, this rulemaking does not involve any change to the current time requirements for reciprocity filings. In most cases, licensees must file the NRC Form 241 at least 3 days before engaging in activities under reciprocity. However, as the proposed rule explained in more detail, the Regional Administrator may waive the 3-day requirement, because of an emergency or other reasons, provided the licensee receives authorization and files the appropriate information within 3 days. In addition, this rule does not broaden the authority for telephone waivers of the 3-day filing requirement. While this rulemaking does add language to indicate that a waiver may be given ''because of an emergency or other reasons,'' this addition simply provides an example of an instance when a waiver may be appropriate. As such, this rulemaking does not expand or otherwise change the Regional Administrators' current discretion to grant waivers to the 3-day filing requirement.

Finally, contrary to the commenter's assertions, this rulemaking does not eliminate any existing requirements applicable to radiographers operating under reciprocity in areas of NRC jurisdiction. However, the reference to a Part 71 requirement applicable to radiographers in the proposed rule has been eliminated in the final rule because it is not necessary. The present rule does not alter the requirements applicable to radiographers operating under reciprocity.

No changes in the rule have been made in response to this comment. Minor editorial changes have been made to the rule (e.g., in §150.20(b) the word ''valid'' in the proposed rule has been changed to ''applicable'' and other changes have been made in this section for clarification or grammatical purposes).

Regulatory Action

Exclusive Federal Jurisdiction

The current wording of §150.20 has created confusion for Agreement State licensees operating in areas of exclusive Federal jurisdiction within Agreement States. An area of exclusive Federal jurisdiction is an area over which the Federal Government exercises legal control without interference from the jurisdiction and administration of State law. Areas of exclusive Federal jurisdiction exist in both Agreement and non-Agreement States. Because the Federal Government has sole authority over areas of exclusive Federal jurisdiction in Agreement States, the NRC has jurisdiction over Atomic Energy Act activities conducted in those areas. Section 150.20 contains the notification procedures (use of an NRC Form 241) regarding general licenses for Agreement State licensees seeking to operate in areas of NRC jurisdiction (e.g., non-Agreement States and offshore waters).

However, §150.20 does not indicate that the NRC may grant reciprocity to Agreement State licensees to conduct activities in areas of exclusive Federal jurisdiction within an Agreement State. The current regulation only authorizes a general license for activities conducted in non-Agreement States, whether or not in an area of exclusive Federal jurisdiction within that non-Agreement State, and offshore waters. Despite the omission in the regulation, the NRC staff, under current practice, permits an Agreement State licensee to operate in an area of exclusive Federal jurisdiction within the Agreement State if the licensee submits an acceptable NRC Form 241.

The lack of a specific reference to areas of exclusive Federal jurisdiction has caused confusion for licensees, Agreement States, and, occasionally, the NRC staff in interpreting the coverage of the reciprocity provisions in §150.20. This rulemaking amends §150.20 to provide a specific reference to areas of exclusive Federal jurisdiction.

Regulatory Requirements Applicable to §150.20 Licensees

The specific references to other NRC regulatory requirements in §150.20 has also been a source of confusion. According to §150.20(b), persons operating under the general license must comply with a variety of specific NRC regulatory requirements. However, §150.20 does not specifically reference all NRC regulations that are applicable to materials licensees. The revised §150.20 clearly indicates that licensees operating pursuant to the rule's provisions must comply with all NRC regulations applicable to materials licensees.

This amendment is consistent with the original intent of the rule. When originally issued in 1962 (27 FR 1351; February 14, 1962), §150.20 required Agreement State licensees to comply with ''the appropriate provisions of 10 CFR Parts 20, 30, 31, 40, and 70'' of the Commission's regulations. The rule required compliance with all NRC regulations applicable to NRC materials licensees at that time. In 1965, many of the requirements in 10 CFR Part 30 were relocated to newly created regulatory provisions in 10 CFR Parts 32, 33, 34, 35, and 36 (30 FR 8185; June 26, 1965). A conforming amendment to §150.20 was not made in response to this change. Since 1965, specific requirements have been added to §150.20 that may have created the impression that certain NRC requirements otherwise applicable to materials licensees are not applicable to general licensees under §150.20. This is not the case. It is NRC's position that Agreement State licensees operating in areas of NRC jurisdiction pursuant to §150.20 must comply with those regulations applicable to NRC licensees. This amendment will clarify the applicable requirements.

Fees Imposed on Agreement State Licensees Operating Under Reciprocity

The amendment adds appropriate references to §150.20 regarding the relevant fee requirements in 10 CFR Part 170. The fee schedule in 10 CFR Part 170 is being updated to indicate that there will be a charge for licensee revisions to an NRC Form 241 in addition to the initial filing fee. A clarification to an NRC Form 241 does not require a fee. The NRC Form 241 is being revised to include, in the instructions on the form, information concerning revisions and clarifications.

In addition, this amendment involves a minor conforming change to the schedule for materials fees in §170.31, ''Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and Export Licenses,'' to clarify that the fee requirement applies to activities conducted under reciprocity pursuant to §150.20 regardless of the location of the activities.

Filing Procedures

The amendment also clarifies the procedures for filing an NRC Form 241 for reciprocity described in §150.20(b).

The clarifications include identifying what needs to be submitted, specifying the procedure to use when an emergency filing is necessary, and making revisions to the initial filing. These clarifications do not impose any additional requirements on the Agreement State licensee.

Enforcement

If an Agreement State licensee fails to notify the NRC before conducting work in an area of exclusive Federal jurisdiction, the NRC is denied an opportunity to inspect the activity to determine that it is being conducted safely and in accordance with NRC requirements. The current NRC Enforcement Policy (''General Statement of Policy and Procedures for NRC Enforcement Actions'', NUREG 1600) contains an example in Supplement VI.C.9 of failure to submit an NRC Form 241 in accordance with 10 CFR 150.20. Under the Enforcement Policy, this violation is categorized at Severity Level III, which constitutes escalated enforcement action. However, absent extraordinary circumstances, the NRC will not take enforcement action against an Agreement State licensee for such a violation if the licensee has evidence that it received a determination, before beginning work, from a Federal Agency that the area of work is not under exclusive Federal jurisdiction. This evidence may be a written statement from the Federal Agency that provided the determination and the date that it was provided, or a written record made by the licensee with the name and title of the person at the Federal Agency who provided the determination and the date that it was provided.

Compatibility of Agreement State Regulations

The provisions in §150.20 will continue to be a Division 1 item of compatibility. The Commission recognizes that portions of the rule apply to matters under NRC's jurisdiction (e.g., offshore waters and areas of exclusive Federal jurisdiction). The Agreement States should fashion their own rules implementing this provision in a manner consistent with their authority. The Commission is currently developing implementing procedures for a new Adequacy and Compatibility Policy that was approved by the Commission on June 29, 1995. The Commission will continue to apply the current compatibility designation to §150.20 until it gives its final approval to the implementing procedures for the new Policy.

Environmental Impact: Categorical Exclusion

The Commission has determined that this regulation is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

Paperwork Reduction Act Statement

This rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0032.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Analysis

This final rule does not impose any new requirements or additional costs to licensees because the rulemaking codifies current practice that allows Agreement State licensees to work under an NRC general license. Because the rulemaking improves the clarity and consistency of the NRC's regulations, it will benefit Agreement State licensees operating in areas of exclusive Federal jurisdiction.

This rule will result in a minor reduction in NRC resources (estimated to be one-sixth of a staff year per year) currently being expended to explain our fee schedule and to clarify for licensees and Agreement States the conditions under which an Agreement State licensee can operate within an area of exclusive Federal jurisdiction. NRC resources to amend §150.20 are estimated to be about one-half of a staff year, which is a cost effective, one-time use of resources. This constitutes the regulatory analysis for this final rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact upon a substantial number of small entities.

The final rule does not impose any new requirements or additional costs to licensees because the rule codifies current practice that allows Agreement State licensees to work under an NRC general license. Because this rule improves the clarity and consistency of NRC's regulations, it will benefit Agreement State licensees operating in areas of exclusive Federal jurisdiction.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, a backfit analysis is not required, because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 150 and 170.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

1. The authority citation for Part 150 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under

sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

2. Section 150.20 is amended by revising paragraphs (a), the introductory text of (b), (b)(1), and the introductory text of (c), redesignating paragraphs (b)(2) through (b)(4) as paragraphs (b)(3) through (b)(5), revising redesignated paragraphs (b)(3) and (b)(4), and adding a new paragraph (b)(2) to read as follows:

§150.20 Recognition of Agreement State licenses.

(a)(1) Provided that the provisions of paragraph (b) of this section have been met, any person who holds a specific license from an Agreement State, where the licensee maintains an office for directing the licensed activity and retaining radiation safety records, is granted a general license to conduct the same activity in—

(i) Non-Agreement States;

(ii) Areas of exclusive Federal jurisdiction within Agreement States; and

(iii) Offshore waters.

(2) The provisions of paragraph (a)(1) of this section do not apply if the specific Agreement State license limits the authorized activity to a specific installation or location.

(b) Notwithstanding any provision to the contrary in any specific license issued by an Agreement State to a person engaging in activities in a non-Agreement State, in an area of exclusive Federal jurisdiction within an Agreement State, or in offshore waters under the general licenses provided in this section, the general licenses provided in this section are subject to all the provisions of the Act, now or hereafter in effect, and to all applicable rules, regulations, and orders of the Commission including the provisions of §§30.7 (a) through (f), 30.9, 30.10, 30.14(d), 30.34, 30.41, and 30.51 to 30.63, inclusive, of Part 30 of this chapter; §§40.7 (a) through (f), 40.9, 40.10, 40.41, 40.51, 40.61, 40.63 inclusive, 40.71 and 40.81 of Part 40 of this chapter; §§70.7 (a) through (f), 70.9, 70.10, 70.32, 70.42, 70.51 to 70.56, inclusive, 70.60 to 70.62, inclusive, and to the provisions of 10 CFR Parts 19, 20, and 71 and subpart B of Part 34, §§39.15 and 39.31 through 39.77, inclusive, of Part 39 of this chapter. In addition, any person engaging in activities in non-Agreement States, in areas of exclusive Federal jurisdiction within Agreement States, or in offshore waters under the general licenses provided in this section:

(1) Except as specified in paragraph (c) of this section, shall, at least 3 days before engaging in each activity for the first time in a calendar year, file a submittal containing an NRC Form 241, ''Report of Proposed Activities in Non-Agreement States,'' 4 copies of its Agreement State specific license, and the appropriate fee as prescribed in §170.31 of this chapter with the Regional Administrator of the U.S. Nuclear Regulatory Commission Regional Office listed on the NRC Form 241 and in Appendix D of Part 20 of this chapter for the Region in which the Agreement State that issued the license is located. If a submittal cannot be filed 3 days before engaging in activities under reciprocity, because of an emergency or other reason, the Regional Administrator may waive the 3-day time requirement provided the licensee:

(i) Informs the Region by telephone, facsimile, an NRC Form 241, or a letter of initial activities or revisions to the information submitted on the initial NRC Form 241;

(ii) Receives oral or written authorization for the activity from the Region; and

(iii) Within 3 days after the notification, files an NRC Form 241, 4 copies of the Agreement State license, and the fee payment.

(2) Shall file an amended NRC Form 241 or letter and the appropriate fee as prescribed in § 170.31 of this chapter with the Regional Administrator to request approval for changes in work locations, radioactive material, or work activities different from the information contained on the initial NRC Form 241.

(3) Shall not, in any non-Agreement State, in an area of exclusive Federal jurisdiction within an Agreement State, or in offshore waters, transfer or dispose of radioactive material possessed or used under the general licenses provided in this section, except by transfer to a person who is —

(i) Specifically licensed by the Commission to receive this material; or

(ii) Exempt from the requirements for a license for material under § 30.14 of this chapter.

(4) Shall not, under the general license concerning activities in non-Agreement States or in areas of exclusive Federal jurisdiction within Agreement States, possess or use radioactive materials, or engage in the activities authorized in paragraph (a) of this section, for more than 180 days in any calendar year, except that the general license in paragraph (a) of this section concerning activities in offshore waters authorizes that person to possess or use radioactive materials, or engage in the activities authorized, for an unlimited period of time.

* * * * *

(c) A person engaging in activities in offshore waters under the general license provided for that purpose in paragraph (a) of this section need not file an NRC Form 241 with the Commission under paragraph (b)(1) of this section provided that:

* * * * *

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

3. The authority citation for Part 170 continues to read as follows:

Authority: 31 U.S.C. 9701, sec. 301, Pub. L. 92–314, 86 Stat. 222 (42 U.S.C. 2201w); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec 205, Pub L. 101–576, 104 Stat 2842, (31 U.S.C. 902).

§ 170.31 [Amended]

4. Section 170.31 is amended by removing the phrase ''in a non-Agreement State'' from Category 16 of the Schedule of Materials Fees.

Dated at Rockville, Maryland, this 30th day of December, 1996.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 97–718 Filed 1–10–97; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 960918263–6345–02]

RIN 0691–AA27

International Services Surveys: BE–20 Benchmark Survey of Selected Services Transactions With Unaffiliated Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: These final rules amend the reporting requirements for the BE–20. Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons.

The BE–20 benchmark survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act. It is taken once every five years. The last survey was conducted for 1991, and the next survey will be

conducted for 1996. The BE–20 is a benchmark survey that is intended to cover the universe of selected U.S. services transactions with unaffiliated foreign persons. In nonbenchmark years, universe estimates of these transactions are derived from reported sample data by extrapolating forward the universe data collected in the BE–20 survey. The data are needed to support U.S. trade policy initiatives on international services and to compile the U.S. balance of payments and the national income and product accounts.

The major change to the BE–20 benchmark survey contained in these rules is to expand its coverage to obtain data on additional types of services, to fill gaps in Government statistics on transactions in new, growing, and volatile international services categories. Transactions in the following types of services will be covered on the BE–20 for the first time: Merchanting services (sales only), financial services by firms that are not financial services providers (purchases only), operational leasing services, selling agent services, and ''other'' private services. ''Other'' private services consists of transactions in satellite photography, security, actuarial, salvage, oil spill and toxic waste cleanup, language translation, and account collection services. In addition, to reduce burden, BEA is eliminating several questions in the respondent identification section of the survey.

DATES: These rules will be effective February 12, 1997.

FOR FURTHER INFORMATION CONTACT: R. David Belli, Assistant Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Depart of Commerce, Washington, DC 20230; phone (202) 606–9800.

SUPPLEMENTARY INFORMATION: In the October 17, 1996, Federal Register, volume 61, No. 202, 61 FR 54109, BEA published a notice of proposed rulemaking setting forth revised reporting requirements for the BE–20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons. No comments on the proposed rules were received. As a result, the final rules are the same as the proposed rules.

These final rules amend 15 CFR Part 801 by revising Section 801.10. The survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act (Pub. L. 94–472. 90 Stat. 2059, 22 U.S.C. 3101–3108, as amended). Section 3103(a), of the act provides that ''The President shall, to the extent he deems necessary and feasible—* * * (4) conduct * * * benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons * * *'' In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated the authority under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The BE–20 benchmark survey is conducted once every five years. The next survey will cover 1996; the last survey was conducted for 1991. The survey is intended to cover the universe of selected U.S. services transactions with unaffiliated foreign persons. In nonbenchmark years, universe estimates of these transactions are derived from reported sample data by extrapolating forward the universe data collected in the BE–20 benchmark survey. The data are needed to support U.S. trade policy initiatives on international services; compile the U.S. balance of payments and national income and product accounts; develop U.S. international price indexes for services; assess U.S. competitiveness in, and promote, international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities for services trade.

The major change to the BE–20 benchmark survey contained in these final rules is to expand coverage to obtain data on additional types of services. The expanded coverage will fill several of the remaining major gaps in Government statistics on international services transactions in new, growing, and volatile services categories. Transactions in the following types of services will be covered on the BE–20 for the first time: Merchanting services (sales only), financial services by firms that are not financial services providers (purchases only), operational leasing services, selling agent services, and ''other'' private services. ''Other'' private services consist of transactions in satellite photography, security, actuarial, salvage, oil spill and toxic waste cleanup, language translation, and account collection services.

Reporting in the BE–20 benchmark survey is required from U.S. persons with sales to, or purchases from, unaffiliated foreign persons in excess of $500,000 in any of the services covered during the reporting year. Those meeting this criterion must supply data on the amount of their total sales or total purchases of each type of service in which their transactions exceeded this threshold amount. Except for sales of merchanting services, the data also must be disaggregated by country; for sales of merchanting services, data are required to be reported only for all foreign countries combined. U.S. persons with purchases or sales during the reporting year of $500,000 or less in a given type of covered service are asked to provide, on a voluntary basis, estimates only of their total purchases or total sales, as appropriate, of the given type of service.

To reduce respondent burden, BEA is eliminating several questions in the U.S. reporter identification section of the survey. Specifically, a requirement to disaggregate sales or gross operating revenues by individual detailed (3-digit) industry has been eliminated, and only a single industry for the consolidated enterprise is to be reported. In addition, a question on the respondent's total number of full-time and part-time U.S. employees at the end of its fiscal year has been eliminated.

Executive Order 12612

These final rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Executive Order 12866

These final rules have been determined to be not significant for purposes of E.O. 12866.

Paperwork Reduction Act

The collection of information requirement in these final rules has been approved by OMB.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB Control Number; such a Control Number (0608–0058) has been displayed.

Public reporting burden for this collection of information is estimated to vary from 4 to 500 hours, with an overall average burden of 12 hours. This includes time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0058, Washington, DC 20503.

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these final rules will not have a significant economic impact on a substantial number of small entities. The exemption level for the survey excludes most small businesses from mandatory reporting. Reporting is required only if total sales or total purchases transactions with unaffiliated foreign persons in a covered type of service exceed $500,000 during the year. Of those smaller businesses that must report, most will tend to have specialized operations and activities and will likely report only one type of service; therefore, the burden on them should be small.

List of Subjects in 15 CFR Part 801

Balance of payments, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: January 3, 1997.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA amends 15 CFR part 801, as follows:

PART 801—[AMENDED]

1. The authority citation for 15 CFR part 801 continues to read as follows:

Authority: 5 U.S.C. 301, 15 U.S.C. 4908, 22 U.S.C. 3101–3108, and E.O. 11961 (3 CFR, 1977 Comp., p. 86) as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 801.10 is revised to read as follows:

§ 801.10 Rules and regulations for the BE–20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons.

The BE–20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons, will be conducted covering companies' 1996 fiscal year and every fifth year thereafter. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.9(a) are applicable to this survey. Additional rules and regulations for the BE–20 survey are given in this section. More detailed instructions and descriptions of the individual types of services covered are given on the report form itself.

(a) The BE–20 survey consists of two parts and eight schedules. Part I requests information needed to determine whether a report is required and which schedules apply. Part II requests information about the reporting entity. Each of the eight schedules covers one or more types of services and is to be completed only if the U.S. Reporter has transactions of the type(s) covered by the particular schedule.

(b) *Who must report*—(1) *Mandatory reporting.* A BE–20 report is required from each U.S. person who had transactions (either sales or purchases) in excess of $500,000 with unaffiliated foreign persons in any of the services listed in paragraph (c) of this section during its fiscal year covered by the survey.

(i) The determination of whether a U.S. person is subject to this mandatory reporting requirement may be judgmental, that is, based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search. Because the $500,000 threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both sales and purchases.

(ii) Reporters who file pursuant to this mandatory reporting requirement must complete Parts I and II of Form BE–20 and all applicable schedules. The total amounts of transactions applicable to a particular schedule are to be entered in the appropriate column(s) on line 1 of the schedule. In addition, except for sales of merchanting services, these amounts must be distributed below line 1 to the country(ies) involved in the transaction(s). For sales of merchanting services, the data by individual foreign country are not required to be reported, although these data may be reported voluntarily.

(iii) Application of the $500,000 exemption level to each covered service is indicated on the schedule for that particular service. It should be noted that an item other than sales or purchases may be used as the measure of a given service for purposes of determining whether the threshold for mandatory reporting of the service is exceeded.

(2) *Voluntary reporting.* If, during the fiscal year covered, the U.S. person's total transactions (either sales or purchases) in any of the types of services listed in paragraph (c) of this section are $500,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service.

(i) Provision of this information is voluntary. The estimates may be judgmental, that is, based on recall, without conducting a detailed manual records search. Because the $500,000 threshold applies separately to sales and purchases, the voluntary reporting option may apply only to sales, only to purchases, or to both sales and purchases.

(ii) The amounts of transactions reportable on a particular schedule are to be entered in the appropriate column(s) in the voluntary reporting section of the schedule; they are not required to be disaggregated by country. Reporters filing voluntary information only should also complete Parts I and II of the form.

(3) Any U.S. person that receives the BE–20 survey form from BEA, but is not reporting data in either the mandatory or voluntary section of the form, must nevertheless complete and return the Exemption Claim included with the form to BEA. This requirement is necessary to ensure compliance with reporting requirements and efficient administration of the Act by eliminating unnecessary followup contact.

(c) *Covered types of services.* Only the services listed in this paragraph are covered by the BE–20 survey. Other services, such as transportation and reinsurance, are not covered. Covered services are: Agricultural services; research, development, and testing services; management, consulting, and public relations services; management of health care facilities; accounting, auditing, and bookkeeping services; legal services; educational and training services; mailing, reproduction, and commercial art; employment agencies and temporary help supply services; industrial engineering services; industrial-type maintenance, installation, alteration, and training services; performing arts, sports, and other live performances, presentations, and events; sale or purchase of rights to natural resources, and lease bonus payments; use or lease of rights to natural resources, excluding lease bonus payments; disbursements to fund news-gathering costs of broadcasters; disbursements to fund news-gathering costs of print media; disbursements to fund production costs of motion pictures; disbursements to fund production costs of broadcast program material other than news; disbursements to maintain government tourism and business promotion offices; disbursements for sales promotion and representation; disbursements to participate in foreign trade shows

(purchases only); premiums paid on purchases of primary insurance; losses recovered on purchases of primary insurance; construction, engineering, architectural, and mining services (purchases only); merchanting services (sales only); financial services (purchases only, by companies or parts of companies that are not financial services providers); advertising services; computer and data processing services; data base and other information services; telecommunications services; operational leasing services; and ''other'' private services. ''Other'' private services covers transactions in the following types of services: Satellite photography services, security services, actuarial services, salvage services, oil spill and toxic waste cleanup services, language translation services, and account collection services.

[FR Doc. 97–743 Filed 1–10–97; 8:45 am]

BILLING CODE 3510–EA–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Rules of Agency Organization

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The National Labor Relations Board (NLRB) issues a final rule which deletes all references in its rules and regulations to the ''deputy'' chief judge in San Francisco, California, and substitutes therefor, where appropriate, references to the ''associate'' chief judge in San Francisco, California, the correct title of the position.

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570. Phone: (202) 273–1940.

SUPPLEMENTARY INFORMATION:

Regulatory Requirements

This rule merely conforms current regulations to properly reflect the Agency's current organizational structure, relates solely to agency organization, procedure and practice, and will not have a significant impact on a substantial number of small businesses or impose any information collection requirements. Accordingly, the Agency finds that prior notice and comment is not required for these rules and that good cause exists for waiving the general requirement of delaying the effective date under the Administrative Procedure Act (5 U.S.C. 553), and that the rules are not subject to the Regulatory Flexibility Act (5 U.S.C. 601), Small Business Regulatory Enforcement Act (5 U.S.C. 801), Paperwork Reduction Act (44 U.S.C. 3501), or Executive Order 12866.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

29 CFR part 102 is amended as follows:

PART 102—RULES AND REGULATIONS

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

§ 102.24 [Amended]

2. Section 102.24, paragraph (a) is amended by substituting ''associate'' for ''deputy'' in the third and fifth sentences.

§ 102.25 [Amended]

3. Sec. 102.25 is amended by substituting ''associate'' for ''deputy'' in the first sentence.

§ 102.30 [Amended]

4. Sec. 102.30, paragraph (c) is amended by substituting ''associate'' for ''deputy'' in the last sentence.

§ 102.34 [Amended]

5. Sec. 102.34 is amended by substituting ''associate'' for ''deputy'' in the first sentence.

6. Sec. 102.35, paragraph (b) is amended by:

A. revising the first sentence of the introductory text to read as set forth below:

B. deleting ''deputy chief'' in the second sentence of the introductory text, and ''deputy,'' in (b) (1), (3) and (5).

§ 102.35 Duties and powers of administrative law judges; assignment and powers of settlement judges.

* * * * *

(b) Upon the request of any party or the judge assigned to hear a case, or on his or her own motion, the chief administrative law judge in Washington, D.C., the associate chief judge in San Francisco, California, the associate chief judge in Atlanta, Georgia, or the associate chief judge in New York, New York may assign a judge who shall be other than the trial judge to conduct settlement negotiations. * * *

§ 102.36 [Amended]

7. Sec. 102.36 is amended by substituting ''associate'' for ''deputy''.

§ 102.42 [Amended]

8. Sec. 102.42 is amended by substituting ''associate'' for ''deputy'' in the third sentence.

9. Section 102.149, paragraph (b) is amended by revising the first sentence to read as follows:

§ 102.149 Filing of documents; service of documents; motions for extension of time.

* * * * *

(b) Motions for extensions of time to file motions, documents, or pleadings permitted by section 102.150 or by section 102.152 shall be filed with the chief administrative law judge in Washington, D.C., the associate chief judge in San Francisco, California, the associate chief judge in New York, New York, or the associate chief judge in Atlanta, Georgia, as the case may be, not later than 3 days before the due date of the document. * * *

Dated, Washington, D.C., January 7, 1997.

By direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 97–768 Filed 1–10–97; 8:45 am]

BILLING CODE 7545–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–204; Amendment Number 54]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Ohio regulatory program (hereinafter referred to as the ''Ohio program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Ohio proposed revisions pertaining to twenty-two sections of the Ohio Revised Code (ORC) to clarify those sections of State law, to conform those sections to current State practices, and to make those sections equivalent to corresponding Federal laws. The revisions concern confidential information on incidental coal

extraction, the Reclamation Supplemental Forfeiture Fund, use of the Reclamation Supplemental Forfeiture Fund and for non-coal reclamation, the Coal Mining Performance Bond Fund, limitations on the awards of costs and expenses, reclamation contracts with surface mine operators, reclamation of interim forfeiture and insolvent surety sites, use of police powers, AML reclamation liens, the Acid Mine Drainage Abatement and Treatment Fund, lands eligible for remining, average wage rates, deletion of obsolete language on interim continuance of underground coal mining operations, activities eligible for Small Operator Assistance, required staff training, and informal review of issues as a form of alternative dispute resolution.

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the August 10, 1982, Federal Register (47 FR 34688). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 935.11, 935.15, and 935.16.

II. Submission of the Proposed Amendment

By letter dated February 7, 1992 (Administrative Record No. OH–1645), as modified by letter dated February 27, 1992 (Administrative Record No. OH–1657), Ohio submitted proposed Program Amendment Number 54 (PA54). In PA 54, Ohio proposed to revise 13 sections of the ORC concerning a number of regulatory and AML issues. OSM announced receipt of PA 54 in the April 13, 1992, Federal Register (57 FR 12779), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on May 13, 1992.

By letter dated June 15, 1992 (Administrative Record No. OH–1714), OSM provided Ohio with its questions and comments about the February 7, 1992, submission of PA 54. On July 20, 1992, OSM and Ohio staff met to discuss and resolve OSM's questions and comments (Administrative Record No. OH–1746). On July 28, 1992, OSM and Ohio staff further resolved some of those issues in a telephone conversation (Administrative Record No. OH–1754).

In response to OSM's June 15, 1992, letter, Ohio submitted Revised Program Amendment Number 54 (PA 54R) by letter dated September 2, 1992 (Administrative Record No. OH–1769). PA 54R contained further revisions to seven sections of the ORC. OSM announced receipt of PA 54R in the October 28, 1992, Federal Register (57 FR 48765), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on November 27, 1992.

On December 16, 1992 (Administrative Record No. OH–1800), OSM and Ohio staff conducted a telephone discussion of the September 2, 1992, resubmission of PA 54R. On April 30, 1993, OSM and Ohio staff met informally to discuss the status of the amendment with respect to the State's legislative process.

In the June 11, 1993, Federal Register (58 FR 32611), the Director of OSM announced his decision to defer Ohio PA 54R with the exception of the Director's approval of one proposed change at ORC section 1513.02(F)(3) which the Ohio General Assembly was likely to pass in its current form. The Director made this decision because the Ohio Legislative Service Commission had not yet drafted the final statutory language on which PA 54R would ultimately be based and because that language would not be available for review by OSM within the foreseeable future.

By letter dated March 31, 1995 (Administrative Record No. OH–2107), Ohio submitted the final version of PA 54 (PA542R2). This final version contains the statutory changes approved by the Ohio General Assembly in Senate Bill 180 and in House Bill 414. The two bills were signed by the Ohio Governor on December 23, 1992, and December 27, 1994, respectively. The revised statutes went into effect on March 24, 1993, and March 27, 1995, respectively.

Ohio's March 31, 1995, final submission of PA 54R reiterated many of the statute changes previously proposed in PA 54 and PA 54R, and withdrew its proposal to amend ORC Sections 1513.10 and 1513.07 pertaining to Refunds of Permit Fees as well as Interfund Transfers. Portions of other sections were likewise withdrawn as discussed in their respective sections below. The March 31, 1995 submission also proposed new changes to ten sections of the ORC. OSM discussed all proposed changes in the April 13, 1992, October 28, 1992, and April 17, 1995 Federal Register documents concerning the submissions of PA 54, PA 54R and PA 54R2, respectively. An issue letter was sent to Ohio on August 2, 1995 and a conference call was held on August 29, 1995. Further discussions were held during 1996. Statute changes which solely concern Ohio's non-coal regulatory program are outside the jurisdiction of OSM and are not discussed below. Also, changes to paragraph notations and nonsubstantive wording changes are not discussed.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendments.

1. Confidential Information Regarding Exemption Requests for Incidental Coal Extraction

ORC 1513.07 paragraph (D)(2): Ohio is revising this paragraph to specify that, for exemption requests for incidental coal extraction, confidential information includes and is limited to information concerning trade secrets or privileged commercial or financial information relating to the competitive rights of the persons intending to conduct the extraction of minerals. The corresponding Federal rule at 30 CFR 702.13 requires that the person request, in writing, that the information be kept confidential. While Ohio's proposed statute change does not include this requirement, Ohio's Administrative Code Section 1501:13–4–16(J)(2) corresponds with the Federal rule at 30 CFR 702.13(b). Therefore, the proposed change to the statute in conjunction with Ohio's existing Administrative Code Section is no less effective than the corresponding Federal Regulations at 30 CFR 702.13(b).

2. Reclamation Supplemental Forfeiture Fund

Ohio is revising ORC 1513.08 paragraph (A) and proposing a new paragraph ORC 1513.18(D) to move the current language creating the Reclamation Supplemental Forfeiture

Fund from that portion of the Ohio law dealing with performance bonds to that portion of the law dealing with reclamation by the Division. Ohio also proposed adding a new provision which would allow the Division to use funds from the Reclamation Supplemental Forfeiture Fund to reclaim areas which were affected by non-coal mining under surface mining permits issued under ORC Chapter 1514, but which the operator did not adequately reclaim. In its March 31, 1995, final version of PA 54R, Ohio is withdrawing the portion of the proposed language referring to ORC Chapter 1514 from new paragraph (D). Ohio is also removing the fund name from the heading of the section.

ORC 1514.06 paragraph (G): Ohio is proposing to revise this paragraph in lieu of the previously proposed revision discussed above which Ohio is withdrawing from ORC section 1513.18 paragraph (D). The revision to ORC section 1514.06 paragraph (G) would provide that Ohio may expend money from the Reclamation Supplemental Forfeiture Fund or from the Surface Mining Administration Fund to complete reclamation on land affected by non-coal surface mining operations on which an operator has defaulted.

Ohio is also revising ORC Section 1513.18(E) to be consistent with the move of the aforementioned language to ORC Section 1513.18(D).

ORC section 1513.18 paragraph (D): Ohio is adding a statement in this paragraph concerning the State's priority for management of the Reclamation Supplemental Forfeiture Fund, including the selection of projects and the transfer or moneys. That priority shall be to ensure that sufficient moneys are available for reclamation of areas that an operator has affected under a coal mining and reclamation permit issued after September 1, 1981, and which the operator has failed to reclaim. This statement was added in response to the director's concerns that Reclamation Supplemental Forfeiture Fund expenditures on non-coal mining sites could compromise the Fund's solvency as an alternative bonding system to be used for the reclamation of surface coal mining sites. The Director is now satisfied that Ohio will continue to use Fund moneys to reclaim all existing coal mining sites for which bonds have been forfeited, prior to using any such moneys to reclaim non-coal mining sites.

The proposed changes are found to be consistent with the corresponding Federal Regulations at 30 CFR 800.11(e), pertaining to alternative bonding systems.

3. Coal Mining Performance Bond Fund

ORC 1513.081: Ohio is repealing this existing section which created the Coal Mining Performance Bond Fund. Language in this section also authorized the issuance of reclamation performance bonds by the Chief using money from the fund, determined premiums and fees for participation in the fund, and provided for the release and forfeiture of reclamation performance bonds supported by the fund.

Ohio proposed to add ORC section 1513.081 to the Ohio program as part of the November 16, 1987 submission of proposed Ohio Program Amendment Number 32 (Ohio Administrative Record No. OH–0994). This part of Ohio Program Amendment Number 32 was not approved by OSM.

ORC 1513.08 paragraph (B): Ohio is revising this paragraph to delete a reference to performance bonds issued under ORC Section 1513.081 which is to be repealed.

Because the proposed changes were never approved by the Director and therefore never became part of Ohio's approved program, their deletion from the ORC does not render the Ohio program inconsistent with the requirements of SMCRA or the Federal Regulations.

4. Alternative Dispute Resolution

ORC 1513.13 paragraph (A)(3): Ohio is adding this new paragraph to provide an alternative mechanism for resolving disputes over notices, orders, or other decisions issued by the Chief. Any person who, under ORC 1513.13, may appeal such a notice, order, or decision to the Ohio Reclamation Board of Review (RBR) may elect to request an informal review by the Chief of that notice, order, or decision to the RBR. The time spent on such an informal review would not count against the time available to the person to appeal the notice, order, or decision to the RBR. Further, such a review would not stay the order, notice, or decision. Finally, such a review would itself be appealable to the RBR.

Since Ohio already has an informal review process in its regulations for Civil Penalty Assessments, citizen complaints, and bond releases, the proposed change is not inconsistent with the requirements of SMCRA and the Federal regulations insofar as it does not interfere with or duplicate the informal review process already contained in the Ohio program. Therefore, the Director is approving ORC 1513.13(A)(3) to the extent that it does not apply to create additional opportunities for informal review of Civil Penalty assessments, citizen complaints, and bond releases, beyond those already contained in the Ohio program.

5. Limitations on Awards of Costs and Expenses

ORC 1513.13 paragraph (E)(1): Ohio is revising this paragraph to provide that, at the request of a prevailing party in the appeal of an enforcement order or permit decision, the Ohio RBR and/or the Chief may award necessary and reasonably incurred costs and expenses, including attorney fees, for that party's participation in the enforcement proceedings before the Ohio RBR. Ohio later revised this section so that it also applies to awards of costs and expenses incurred in connection with proceedings before the RBR, before the court under ORC section 1513.15 (pertaining to citizen suits), or before the Chief under ORC section 1513.39 (pertaining to employee discrimination). Ohio is also adding that fees awarded under this section may not exceed the prevailing market rates at the time the services were rendered. Costs and expenses may also be awarded for the preparation, defense and appeal of a petition for costs and expenses, provided those costs and expenses are proportionate to those otherwise allowed under ORC 1513.13(E).

ORC 1513.13 paragraph (E)(1)(a): Ohio is revising this paragraph to specify that an award may be made to a party other than the permittee or the Ohio Division of Reclamation (DOR) when the Chief determines that a party both prevailed in whole or in part and made a substantial contribution to the determination of issues. This contribution must be separate and distinct from the contribution made by any other party.

ORC 1513.13 paragraph (E)(1)(b): Ohio is revising this paragraph to clarify that permittees may file petitions for award of costs and expenses with the chief against parties who initiated or participated in an appeal under this section in bad faith for the purpose of harassing or embarrassing the permittee. The Chief may assess those costs and expenses against the party who initiated the appeal.

ORC 1513.13 paragraph (E)(1)(c): Ohio is revising this paragraph to clarify that the DOR may file a request with the RBR for an award of costs and expenses incurred by the DOR in connection with an appeal initiated under this section. The RBR may assess those costs and expenses against those parties who initiated the appeal in bad faith and for the purpose of harassing or embarrassing the DOR.

ORC 1513.13 paragraph (E)(2): Ohio is revising this paragraph to authorize the court to award necessary and reasonably incurred costs and expenses for parties participating in the judicial review of any order issued order this section or as a result of any administrative proceeding under this chapter.

ORC 1513.15 paragraph (F): Ohio is revising this paragraph to authorize the Chief to award necessary and reasonably incurred costs of litigation, including attorney and expert witness fees, in connection with civil actions against the Division. Ohio is also revising this paragraph to delete previously proposed revision and is reinstating the court's authority to award, to any party, costs and fees that the court determines to have been necessary and reasonably incurred, in any proceeding under ORC 1513.15 (B) (citizen suits) in accordance with ORC section 1513.13.

ORC 1513.39 paragraph (C): Ohio is revising this paragraph to incorporate by reference the proposed limit on necessary and reasonably incurred costs and expenses specified in revised ORC section 1513.13 paragraph (E)(1) and (E)(2) as also applying to cases of alleged discrimination against employees.

Except as noted below, the proposed changes are found to be consistent with the requirements of Section 525(e) of SMCRA, 30 CFR 840.15, and 43 CFR 4.1290 and 4.1294.

a. Ohio is required to amend ORC 1513.13 (E)(1)(a) to make it clear that such awards may be made in connection with any administrative review proceedings concerning an enforcement action, permit issuance decision or employee discrimination complaint, not just those concerning enforcement actions.

b. Ohio is required to amend ORC 1513.13(E)(1)(b) and (c) to make it clear that such costs may also be assessed against persons who participate in bad faith appeals, not just those persons who initiate such bad faith appeals.

6. Reclamation Contracts With Surface Mine Operators

ORC 1513.18 paragraph (C): Under the current version of this paragraph, the Chief is authorized to enter into contracts with mine operators mining under a current, valid permit to complete reclamation on defaulted areas. Ohio is revising this paragraph to extend the Chief's authorization to include contracts with surface mine operators mining under permits issued under ORC Chapter 1514, pertaining to minerals other than coal.

While there is no Federal counterpart, the Director finds the proposed change is not inconsistent with SMCRA or the Federal regulations.

7. Reclamation of Forfeited Areas Affected Under Mining Permits Issued After April 10, 1972 But Before September 1, 1981

ORC 1513.18 paragraph (I): Ohio is adding this new paragraph to authorize the Chief to use any unspent funds in the defaulted areas fund to complete reclamation of other interim forfeited areas affected under coal mining and reclamation permits issued after April 10, 1972 but before September 1, 1981.

While there are no Federal counterparts, the Director finds that this propose revision is not inconsistent with SMCRA or the Federal regulations, and is consistent with SMCRA's general intent that all lands disturbed by surface coal mining operations be reclaimed.

8. Chief's Use of Police Powers on State-Funded AML Sites

ORC 1513.27 third paragraph: Ohio is adding this new paragraph to authorize the Chief to enter onto property where the owners are not known, are not readily available, or are not willing to give permission in order for the Division to use State funds to abate adverse effects of past coal mining practices on abandoned mined land (AML). Such entry onto properties shall be construed as an exercise of police power for the protection of the public health and safety and shall not be construed as an act of condemnation nor trespass.

The proposed change is found to be substantively identical to the requirements of section 407 of SMCRA, except that ORC 1513.27 does not grant a right of entry to ''any other property'' in order to have access to the property affected by past coal mining practices. However, because Ohio's program does provide for right of entry upon ''any other property'' for Federally-funded AML projects at ORC 1513.37 (F)(1), the proposed change at ORC 1513.27 does not render the state's program less stringent than section 407 of SMCRA. Therefore, the revision at ORC 1513.27 is approved.

9. AML Liens on Property of Community Improvement Corporations or Nonprofit Organizations

ORC 1513.33 third paragraph: Ohio is revising this paragraph to provide that AML liens filed by the Division against property owned by community improvement corporations or nonprofit organizations shall have priority as a lien second only to the lien of real property taxes imposed upon the land.

This proposed change is substantively identical to language contained in SMCRA at section 408(c).

ORC 1513.33 fourth paragraph: Ohio is revising this paragraph to clarify the procedure to be used by county recorders in recording and indexing AML liens.

ORC 1513.33 fifth paragraph: Ohio is revising this paragraph to provide that AML liens shall continue in force so long as any portion of the lien remains unpaid.

ORC 1513.33 sixth paragraph: Ohio is revising this paragraph to delete the provision that AML liens shall be foreclosed in the same manner as State tax liens foreclosed under ORC Chapter 5721.

While there are no direct Federal counterparts to these proposed changes, they are found not to be inconsistent with the requirements of SMCRA at section 408.

10. Expansion of Sites Eligible for Federally Funded AML Projects

ORC 1513.37 paragraph (C)(1): Ohio is revising this paragraph to expand the eligibility requirements for the sites of Federally funded AML reclamation projects. Ohio is adding new paragraph (C)(1)(b) to make eligible mining operations which occurred during the period beginning August 4, 1977 and ending on or before August 16, 1982 and for which sufficient reclamation funds are not available. Ohio is adding new paragraph (C)(1)(c) to make eligible mining operations which occurred during the period beginning August 4, 1977 and ending on or before November 5, 1990, for which sureties became insolvent, and for which sufficient reclamation funds are not available.

ORC 1513.37 paragraph (C)(2): Ohio is adding this new paragraph to provide that the Chief shall follow the priorities set forth at ORC 1513.37(B)(1) and (B)(2) in determining which sites to reclaim using the new authority granted under ORC 1513.37(C)(1)(b) and (c). The Chief shall ensure that priority is given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon the local community.

The proposed changes are found to be substantively identical to the requirements of SMCRA at section 402(g)(4)(B) and (C).

11. Creation of the State Acid Mine Drainage Abatement and Treatment Fund

ORC 1513.37 paragraph (E): Ohio is adding this new paragraph to create in the State treasury the Acid Mine Drainage Abatement and Treatment

Fund. The fund shall be administered by the Chief and shall consist of grants from OSM to be used in consultation with the U.S. Department of Agriculture, Natural Resources Conservation Service to abate and treat acid mine drainage. Proposed ORC 1513.37 paragraphs (E)(1) through (7) would specify activities eligible for financial support from the fund, including the identification of affected hydrologic units, the sources of acid mine drainage, and the effects of the drainage; the identification of corrective measures to ablate or treat the drainage; calculation of costs; and analysis of benefits.

The proposed changes are found to be substantively identical to section 402(g)(7) of SMCRA.

12. AML Liens on Certain Properties Involved in Federally Funded AML Reclamation Projects

ORC 1513.37 paragraph (G): Ohio is revising this paragraph to provide that the Chief may file in the office of the county recorder a statement of reclamation costs spent on certain properties affected by Federally funded AML reclamation projects. Such statements would constitute a lien upon the land as of the date of the State's reclamation expenditures and would have a priority as a lien second only to the lien of real property taxes imposed upon the land. This revision is substantively identical to language contained in section 408(c) of SMCRA.

ORC 1513.37 paragraph (G)(3): Ohio is revising this paragraph to clarify the procedure to be used by county recorders in recording and indexing AML liens relating to Federally funded reclamation.

ORC 1513.37 paragraph (G)(4): Ohio is adding this new paragraph to provide that AML liens relating to Federally funded reclamation shall continue in force so long as any portion of the lien remains unpaid. Conveyance of the land subject to an AML lien may be set aside if the lien remains unpaid at the time of conveyance.

ORC 1513.37 paragraph (G)(5): Ohio is adding this new paragraph to provide that AML liens relating to Federally funded reclamation shall be foreclosed upon the substantial failure of a landowner to pay any portion of the amount of the lien. Before proceeding with foreclosure, the Chief shall make a written demand upon the landowner for payment and shall give the landowner sixty days to pay the amount.

Although there are no direct Federal counterparts to the proposed changes, the Director finds that they are not inconsistent with the requirements of SMCRA at section 408(c).

13. Lands Eligible for Remining

ORC section 1513.01 paragraph (F): Ohio is adding this paragraph to define the term ''lands eligible for remining'' to mean those lands that otherwise would be eligible for expenditure of AML reclamation funds under paragraph (C)(1) of ORC section 1513.37.

ORC section 1513.07 paragraph (E)(3)(b): Ohio is adding this new paragraph to provide that, until October 1, 2004, any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining shall not prevent issuance of a coal mining permit to the person holding the remining permit. An unanticipated event or condition is one that was not contemplated by the applicable permit.

ORC section 1513.16 paragraph (A)(19)(b): Ohio is adding this new paragraph to provide that coal mining permits on lands eligible for remining shall require the operator to assume the responsibility for successful revegetation of the remined area for two full years after the last augmented seeding, fertilizing, or irrigation.

ORC section 1513.37 paragraph (C)(3): Ohio is adding this new paragraph to provide that surface coal mining operations on lands eligible for remining shall not affect the eligibility of those lands for AML reclamation funding under this section of the ORC after the release of the mining operation's performance bond. If the performance bond for the remining operation is forfeited and is not sufficient for adequate reclamation of the site, Ohio may use AML reclamation funding under this section to augment the bond.

The proposed changes are found to be substantively identical to SMCRA at sections 701(33) and (34), 515(b)(20)(B), and 404 to the extent that 1513.07(E)(3)(b) applies up to, but not including 10/1/2004.

14. Average Wage Rates

ORC section 1513.02 paragraph (J): Ohio is revising this paragraph to provide that the State will use information from non-coal as well as coal mining and reclamation operations in calculating average wage rates. The newly calculated average wage rates shall apply to reclamation performed for Ohio on both coal and non-coal mining sites. While there are no Federal counterparts to this revision, the Director finds that is not inconsistent with SMCRA or its corresponding Federal regulations.

15. Deletion of Obsolete Language

ORC section 1513.07 paragraph (A)(1): Ohio is deleting obsolete language from this paragraph concerning payment of permit fees for areas covered by a permit in effect on August 16, 1982, as well as language concerning interim continuance of underground coal mine operations which were in effect prior to September 1, 1981.

The director finds that deletion of this obsolete language does not render the Ohio program less stringent than SMCRA or less effective than the corresponding federal regulations.

16. Activities Eligible for the Small Operator's Assistance Program (SOAP)

ORC section 1513.07 paragraph (B)(4) (a) and (b): Ohio is revising these paragraphs to expand the types of activities related to permit applications which qualified laboratories can perform for permit applicants under contracts funded by Ohio's SOAP. Qualifying activities include determination of probable hydrologic consequences, development of cross-section maps and plans, geologic drilling and reporting, collection and reporting of archaeological information, performing pre-blast surveys, and collection of information on protection of fish and wildlife habitats. The coal mine operator shall reimburse the State for the costs of SOAP-assisted services if the operator's actual and attributed coal production for all locations exceeds 300,000 tons during the 12 months immediately following the date of issuance of the mining permit.

The proposed changes are found to be substantively identical to, and therefore no less stringent than, sections 507(C)(1) and (h) of SMCRA, except Ohio is required to amend ORC 1513.07(B)(4)(a)(i) or otherwise clarify that probable hydrologic consequences determinations include the engineering analyses and designs necessary for those determinations.

17. Required Staff Training

ORC section 1513.34: Ohio is revising this section to delete the requirements for minimum hourly amounts of initial and annual follow-up training for certain staff positions. In lieu of a minimum of 80 hours of training, Ohio shall provide adequate training and education, during their probationary periods, for all persons appointed as inspection officers. In lieu of a minimum of 40 hours of annual training, Ohio shall provide, on a regular basis as funding allows, continuing education and training as necessary for all inspection officers,

district supervisors, and enforcement personnel. While there are no direct Federal counterparts to these Ohio training requirements, the proposed changes are found to be not inconsistent with the requirements of SMCRA at 503(a)(3), which requires that state regulatory authorities employ sufficient administrative and technical personnel to enable the State to regulate surface coal mining and reclamation operations in accordance with SMCRA.

IV. Summary and Disposition of Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. Because no one requested an opportunity to speak at a public hearing, no hearing was held. Comments were received from the Ohio Historic Preservation Office on March 19, 1992 (Administrative Record No. OH–1671) pertaining to the expansion of sites eligible for Federally funded AML projects. The comment stated that ongoing coordination with the Ohio Historical Society is necessary to address preservation concerns, and requested notification of projects prior to initiation. The Director notes that all abandoned mine lands projects are reviewed by the State Historic Protection Officer (SHPO). Further, a statement of concurrence that no significant cultural or historic properties will be adversely affected, signed by the SHPO, is included with the National Environmental Policy Act documents submitted prior to construction.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Ohio program. MSHA responded that it had no comments in its letter dated April 20, 1995. (Administrative Record No. 2113)

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 et seq.). EPA concurred with the amendment in its letter to OSM dated June 2, 1995. (Administrative Record No. OH–2129)

V. Director's Decision

Based on the above finding(s), the Director approves, with certain additional requirements, the proposed amendment as submitted by Ohio on February 7, 1992, as modified on February 27, 1992, September 2, 1992, and March 31, 1995.

The Federal regulations at 30 CFR Part 935, codifying decisions concerning the Ohio program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 13, 1996.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 935—OHIO

1. The authority citation for Part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 935.15 is amended by adding paragraph (dddd) to read as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(dddd) With the exceptions noted below, the amendments submitted to OSM on February 7, 1992, and revised on February 27, 1992, April 18, 1992 and March 31, 1995, are approved effective January 13, 1997.

ORC 1513.07(D)(2)	Confidential Information.
ORC 1513.08 & ORC 1513.18 (D) & (E), and ORC 1514.06(G)	Reclamation Supplemental Forfeiture Fund.
ORC 1513.13 (E)(1), (E)(2), (C)	Limitation on Awards.
ORC 1513.15(F), ORC 1513.39(C)	
ORC 1513.13(A)(3)	Alternative Dispute Resolution to the extent that it does not duplicate the current informal review process.
ORC 1513.18(C)	Reclamation Contracts.
ORC 1513.18(I)	Reclamation of Forfeited Areas.
ORC 1513.27	Police Powers.
ORC 1513.33	AML Liens.
ORC 1513.37 (C), (C)(1), (C)(1)(b), (C)(1)(c) & (C)(2)	Sites Eligible for AML.
ORC 1513.37(E)	Acid Mine Fund.
ORC 1513.37(G)	Liens on Federally-Funded AML Projects.
ORC 1513.07 (B), (B)(4), (B)(4)(a)(b)	SOAP.
ORC 1513.34	Staff Training.
ORC 1513.01(F), 1513.07(E)(3)(b), 1513.16(A)(19)(b), & 1513.37(C)(3)	Remining to the extent that 1513.07(E)(3)(b) applies up to, but does not include 10/1/2004.
ORC 1513.01(H)(2)	Public Roadways.
ORC 1513.02(J)	Average Wage Rates.
ORC 1513.07(A)(1)	Delete interim continuance of mining in effect prior to 9–1–91.
ORC 1513.081 (Repealed and ORC 1513.08(B)	Coal Mining Performance Bond Fund.

3. Section 935.16 is revised to read as follows:

§ 935.16 Required regulatory program amendments.

(a) By June 27, 1997, Ohio shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to address the following:

(1) Amend the Ohio program at ORC 1513.13(E)(1)(a) to make it clear that such awards may be made in connection with any administrative review proceedings concerning an enforcement action, permit issuance decision or employee discrimination complaint, not just those concerning enforcement actions.

(2) Amend ORC 1513.13(E)(1) (b) and (c) to make it clear that such costs may also be assessed against persons who participate in bad faith appeals, not just those persons who initiate such bad faith appeals.

(3) Amend ORC 1513.07(B)(4)(a)(i) or otherwise clarify that probable hydrologic consequences determinations include the engineering analyses and designs necessary for those determinations.

(b) [Reserved]

[FR Doc. 97–709 Filed 1–10–97; 8:45 am]

BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 20

Interim Rule for Global Package Link (GPL) to Canada

AGENCY: Postal Service.

ACTION: Interim rule with request for comments.

SUMMARY: The Postal Service is amending the rule on Global Package Link to Canada. New pricing is being announced, effective January 13, 1997. The new pricing is a reduction in the rates previously established. The Postal Service is also announcing a new Ground Gateway Global Package Link service to Canada. In order to support this new GPL service, Buffalo has been added as a GPL processing center for ground service only. The Buffalo GPL center will open for service on January 21, 1997. The new ground service will be available to any customer within a 500 mile radius of the two Ground Gateway centers, Seattle, Washington and Buffalo, New York and any other customer that can utilize a direct, existing Postal Service surface transportation to one of the two Ground Gateways. In addition, a merchandise return service is being announced, along with prices, for any customer utilizing the GPL to Canada service.

DATES: The interim regulations take effect as of 12:01 a.m. on January 13, 1997, except for the new Ground Gateway service from Buffalo which will take effect at 12:01 a.m. on January 21, 1997. Comments must be received on or before February 12, 1997.

ADDRESSES: Written comments should be mailed or delivered to International Business Unit, U.S. Postal Service, 475 L'Enfant Plaza SW, 370–IBU, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Mike Opiela, (202) 314–7134.

SUPPLEMENTARY INFORMATION:

I. Introduction

Global Package Link is a service that assists mail order companies and other customers that send merchandise to Japan, Canada, and the U.K. Presently, the Postal Service has Global Package Link processing facilities in New York City, Dallas, Miami, Chicago, San Francisco, and Seattle.

II. GPL to Canada

Description

GPL to Canada currently offers an Air Courier and a Ground Courier service. These services are offered through one of the six aforementioned processing facilities. In most cases these facilities airlift the GPL packages to Canada. A new Ground Gateway service will become effective immediately via Seattle and on January 21, 1997 via Buffalo. This service will provide surface transportation from the mailer's fulfillment center to one of the two Ground Gateways; Seattle or Buffalo. Those mailers within 500 miles of Buffalo will have their packages processed for ground entry into Canada via the Buffalo center, while those mailers within 500 miles of Seattle will have their packages processed for surface entry into Canada via Seattle, which is also an air exchange office for all other GPL destination countries. Buffalo will only be a GPL ground gateway.

Packages will be transported from the Ground Gateways via Postal Service ground transportation to Toronto (from Buffalo) and to Vancouver (from Seattle). From this point the GPL delivery agent will provide expeditious courier handling to the destination address.

The Ground Gateway Service to Canada will include all of the value-added services currently available with the Ground Courier service, including the recently added $100 (Canadian) insurance indemnity per shipment (Air Courier continues to be covered by $500

EMS insurance). The service standard is anticipated to be three to eight business days after dispatch from a customer's plant, depending upon the location of final destination. (For addresses in the Maritimes and extreme northern territories where distance and poor roads affect transportation, delivery times could be as long as ten days.) Customers shipping from outside the 500 mile radius of a Ground Gateway may expect longer delivery times.

Package Specific Information

Package specific information, package size and weight limits, and customs clearance for Ground Gateway service will be the same as for Air and Ground Courier service.

Preparation Requirements

The preparation requirements for the Ground Gateway service are the same as for the Ground Courier service.

III. Rates

Rates for Air Courier service and Ground Courier service are being reduced by between 8 and 10 percent. Volume discounts are being changed to a single 3 percent discount for packages in excess of 100,000 during a twelve month period. The Postal Service is also instituting a return service for packages sent to Canada via GPL.

Global Package Link

Canada

Weight not over	Price per item (pounds)			
	Air courier	Ground courier	Ground gateway	Returns
1	$9.15	$7.75	$7.50	$6.49
2	10.01	8.49	7.75	7.16
3	11.53	9.89	8.00	7.82
4	13.04	10.79	8.25	8.49
5	14.56	11.72	8.50	9.16
6	15.96	12.65	9.00	9.83
7	17.46	13.49	9.50	10.49
8	18.97	14.33	10.00	11.16
9	20.47	15.18	10.50	11.83
10	21.98	16.01	11.00	12.50
11	23.32	16.75	11.50	13.16
12	24.81	17.60	12.00	13.83
13	26.32	18.47	12.50	14.50
14	27.81	19.32	13.00	15.17
15	29.31	20.19	13.50	15.83
16	30.80	21.53	14.00	16.50
17	32.31	22.41	14.50	17.17
18	33.80	23.29	15.00	17.84
19	35.29	24.35	15.50	18.50
20	36.79	25.23	16.00	19.17
21	38.02	25.93	16.50	19.84
22	39.50	26.80	17.00	20.50
23	40.99	27.68	17.50	21.17
24	42.47	28.56	18.00	21.84
25	43.97	29.44	18.50	22.51
26	45.45	30.31	19.00	23.17
27	46.59	31.20	19.50	23.84
28	48.42	32.07	20.00	24.51
29	49.91	32.95	20.50	25.18
30	51.40	33.83	21.00	25.84
31	52.50	34.45	21.50	26.51
32	53.97	35.31	22.00	27.18
33	55.46	36.19	22.50	27.85
34	56.93	37.06	23.00	28.51
35	58.40	37.93	23.50	29.18
36	59.87	38.80	24.00	29.85
37	61.36	39.68	24.50	30.52
38	62.83	40.85	25.00	31.18
39	64.31	41.90	25.50	31.85
40	65.78	42.93	26.00	32.52
41	66.78	43.49	26.50	33.19
42	68.24	44.37	27.00	33.85
43	69.70	45.25	27.50	34.52
44	71.16	46.48	28.00	35.19
45	72.64	47.37	28.50	35.86
46	73.56	47.88	29.00	36.52
47	75.01	49.51	29.50	37.19
48	76.46	51.15	30.00	37.86
49	77.81	52.83	30.50	38.52
50	79.37	54.92	31.00	39.19
51	80.83	56.26	31.50	39.86
52	82.29	57.63	32.00	40.53
53	83.74	59.03	32.50	41.19
54	85.20	60.43	33.00	41.86
55	86.66	61.84	33.50	42.53
56	87.47	62.41	34.00	43.20

Weight not over	Price per item (pounds)			
	Air courier	Ground courier	Ground gateway	Returns
57	88.91	63.40	34.50	43.86
58	90.36	64.39	35.00	44.53
59	91.80	65.38	35.50	45.20
60	93.26	66.82	36.00	45.87
61	94.70	67.83	36.50	46.53
62	96.15	68.82	37.00	47.20
63	96.88	69.79	37.50	47.87
64	98.31	70.76	38.00	48.54
65	99.75	71.79	38.50	49.20
66	101.18	72.83	39.00	49.87

Discounts

Postage is reduced by the following discount once the applicable volume thresholds are reached during a 12 month period:

100,000 or less .....base rate
over 100,000 annually.....3 per cent discount

No discounts are available for returns.

The above prices are effective January 13, 1997 for the Air Courier and Ground Courier service. Prices for the new Ground Gateway Service become effective immediately for those eligible to use the Seattle center and on January 21, 1997, for those eligible to use the Buffalo center.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal service.

The Postal Service adopts the following interim amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. The Individual Country Listing for Canada in the International Mail Manual is amended by adding the interim regulations concerning Global Package Link processing facilities, rate chart for GPL- Canada and new Ground Gateway centers.

Global Package Link (620)

Delivery Options

[Note: Add the following information as the third delivery option:]

Ground Gateway Service

Ground Gateway Service will offer ground service to Canada from the designated Ground Gateway facilities and ground transportation to final destination in Canada. It will receive the same expeditious customs clearance as the Ground Courier Service and normal delivery times for 95 percent of all Canadian addresses will be three to eight days after dispatch from the customer's plant, depending on the location of the final destination. (For addresses in the Maritimes and extreme northern territories where distance and poor roads affect transportation, delivery times could be as long as ten days.)

Processing Facilities

[Note: Add the information below about Ground Gateway Centers:]

Ground Gateway Centers

Ground Gateway Service will be processed at one of two designated Ground Gateway centers; Seattle and Buffalo.

Processing and Acceptance

[Note: Add acceptance procedures for Ground Gateway service:]

Within 500 Miles of a Global Package Link Ground Gateway Facility

If the plant at which the customer's Global Package Link packages originate is located within 500 miles of a Global Package Link Ground Gateway, the Postal Service will verify and accept the packages at the customer's plant and transport them to the Global Package Link Ground Gateway according to a schedule agreed upon by the Postal Service and the customer.

More Than 500 Miles From a Global Package Link Ground Gateway Facility

Customers located outside of a 500 mile radius of these two Ground Gateway centers for Ground Gateway GPL service to Canada may still use the service provided they are located in a city having direct, existing Postal Service surface transpiration to one of the two Ground Gateway centers. If no such existing surface transportation exists in their origin city, the mailer may drop ship, at their own expense, packages to one of the Ground Gateway centers.

Insurance and Indemnity

[Add the information below on Ground Gateway insurance:]

Ground Gateway Service

Packages sent through Ground Gateway Service include up to $100 (Canadian) insurance at no additional cost.

Base Rates

[Note: Replace the current discount table with the one below:]

Number of packages	Percent discount
Up to 100,000	Base Rate.
100,001 and over	3% off base rates.
No discount for parcel returns..	

Preparation Requirements

[Note: Add the information below about preparation requirements for third service:]

Ground Gateway Service

There are no Canada-specific preparation requirements for packages sent through Ground Gateway Service. Packages weighing 1 pound or less must bear the ''SMALL PACKET'' marking (see 264.21).

Return Service

A return merchandise service will be available to GPL—Canada customers. The mailer/or the Canadian recipient, will be responsible for payment of shipment costs back to the designated Canadian return center. The return center will open and inspect the contents of each box and process for return back to the U.S., including applying for a refund of duties and taxes to Revenue Canada. Upon arrival in the U.S., the parcels will be sent back to the mailer via the domestic parcel network. The return prices, per parcel, are detailed in the rate chart.

[Replacing current rate table with the one below]

Global Package Link

Canada

Weight not over (pounds)	Price per item			Returns
	Air courier	Ground courier	Ground gateway	
1	$9.15	$7.75	$7.50	$6.49
2	10.01	8.49	7.75	7.16
3	11.53	9.89	8.00	7.82
4	13.04	10.79	8.25	8.49
5	14.56	11.72	8.50	9.16
6	15.96	12.65	9.00	9.83
7	17.46	13.49	9.50	10.49
8	18.97	14.33	10.00	11.16
9	20.47	15.18	10.50	11.83
10	21.98	16.01	11.00	12.50
11	23.32	16.75	11.50	13.16
12	24.81	17.60	12.00	13.83
13	26.32	18.47	12.50	14.50
14	27.81	19.32	13.00	15.17
15	29.31	20.19	13.50	15.83
16	30.80	21.53	14.00	16.50
17	32.31	22.41	14.50	17.17
18	33.80	23.29	15.00	17.84
19	35.29	24.35	15.50	18.50
20	36.79	25.23	16.00	19.17
21	38.02	25.93	16.50	19.84
22	39.50	26.80	17.00	20.50
23	40.99	27.68	17.50	21.17
24	42.47	28.56	18.00	21.84
25	43.97	29.44	18.50	22.51
26	45.45	30.31	19.00	23.17
27	46.59	31.20	19.50	23.84
28	48.42	32.07	20.00	24.51
29	49.91	32.95	20.50	25.18
30	51.40	33.83	21.00	25.84
31	52.50	34.45	21.50	26.51
32	53.97	35.31	22.00	27.18
33	55.46	36.19	22.50	27.85
34	56.93	37.06	23.00	28.51
35	58.40	37.93	23.50	29.18
36	59.87	38.80	24.00	29.85
37	61.36	39.68	24.50	30.52
38	62.83	40.85	25.00	31.18
39	64.31	41.90	25.50	31.85
40	65.78	42.93	26.00	32.52
41	66.78	43.49	26.50	33.19
42	68.24	44.37	27.00	33.85
43	69.70	45.25	27.50	34.52
44	71.16	46.48	28.00	35.19
45	72.64	47.37	28.50	35.86
46	73.56	47.88	29.00	36.52
47	75.01	49.51	29.50	37.19
48	76.46	51.15	30.00	37.86
49	77.81	52.83	30.50	38.52
50	79.37	54.92	31.00	39.19
51	80.83	56.26	31.50	39.86
52	82.29	57.63	32.00	40.53
53	83.74	59.03	32.50	41.19
54	85.20	60.43	33.00	41.86
55	86.66	61.84	33.50	42.53
56	87.47	62.41	34.00	43.20
57	88.91	63.40	34.50	43.86
58	90.36	64.39	35.00	44.53
59	91.80	65.38	35.50	45.20
60	93.26	66.82	36.00	45.87
61	94.70	67.83	36.50	46.53
62	96.15	68.82	37.00	47.20
63	96.88	69.79	37.50	47.87
64	98.31	70.76	38.00	48.54
65	99.75	71.79	38.50	49.20
66	101.18	72.83	39.00	49.87

Stanley F. Mires,
Chief Counsel, Legislative.
[FR Doc. 97–490 Filed 1–10–97; 8:45 am]
BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL–5673–9]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Amendment

AGENCY: Environmental Protection Agency.

ACTION: Final rule amendment.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is amending 40 CFR Part 261, Appendix IX to reflect changes in ownership and name for Envirite Corporation (Petitioner) in Canton, Ohio; Harvey, Illinois and York, Pennsylvania. Today's final rule amendment documents these changes.

EFFECTIVE DATE: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at 1–800–424–9346.

For technical information on this action as it applies to the Canton, Ohio and Harvey, Illinois facilities, contact Ms. Judy Kleiman, Waste Management Branch, Waste Pesticides and Toxics Division, U.S. Environmental Protection Agency Region 5, 77 W. Jackson Blvd; Chicago, IL 60604, 312–886–1482. For technical information on this action as it applies to the York, Pennsylvania facility, contact Mr. David M. Friedman, Technical and Program Support Branch, Hazardous Waste Management Division, U.S. Environmental Protection Agency Region 3, 841 Chestnut Street, Philadelphia, PA 19107, 215–566–3395.

SUPPLEMENTARY INFORMATION: In this document EPA is amending Appendix IX to Part 261 to reflect changes in the ownership and name for certain facilities. The petition process under §§260.20 and 260.22 allows facilities to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste. Based on waste specific information provided by the Petitioner, EPA granted a final exclusion to Envirite Corporation for its facilities in Canton, Ohio; Harvey, Illinois and York, Pennsylvania on November 14, 1986 (51 FR 41324). On December 9, 1996, Envirite Corp. notified Regions 3 and 5 that on December 31, 1996, ownership of the Envirite Corporation facility in Canton, Ohio will be transferred to Envirite of Ohio, Inc., ownership of the Envirite Corporation facility in Harvey, Illinois will be transferred to Envirite of Illinois, Inc., and ownership of the Envirite Corporation facility in York, Pennsylvania will be transferred to Envirite of Pennsylvania, Inc.

Envirite Corporation further noted that no changes would be made in the management of EPA Hazardous Wastes F006–F009, F011, F012, F019, K002–K008 and K062 for which EPA granted exclusions pursuant to 40 CFR 260.20 and 260.22, and that all conditions of the exclusions would continue to be met at each of the Petitioner's affected facilities. Today's notice documents the transfer of ownership and name change by updating Appendix IX to incorporate the change in owner's name for each facility affected by such exclusions.

This change to 40 CFR Part 261, Appendix IX shall be effective December 31, 1996. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six month period to come into compliance. As described above, the change in ownership will not affect the facilities' operations. Therefore, a six month delay in the effective date is not necessary in this case. This provides a basis for making these amendments effective immediately under the Administrative Procedures Act, pursuant to 5 U.S.C. 5531(d).

List of Subjects in 40 CFR Part 261

Environmental Protection Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

Dated: December 24, 1996.
Valdas Adamkus,
Regional Administrator, Region 5.

For reasons set out in this preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. 40 CFR Part 261, Appendix IX, Tables 1 and 2 are amended by removing the entries for Envirite Corporation and by adding, in alphabetical order, the entries for Envirite of Illinois, Envirite of Ohio and Envirite of Pennsylvania to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	* * * * * * *	
Envirite of Illinois (formerly Envirite Corporation).	Harvey, Illinois	See waste description under Envirite of Pennsylvania.
Envirite of Ohio (formerly Envirite Corporation).	Canton, Ohio	See waste description under Envirite of Pennsylvania.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
Envirite of Pennsylvania (formerly Envirite Corporation).	York, Pennsylvania	Dewatered wastewater sludges (EPA Hazardous Waste No .F006) generated from electroplating operations; spent cyanide plating solutions (EPA Hazardous Waste No. F007) generated from electroplating operations; plating bath residues from the bottom of plating baths (EPA Hazardous Waste No. F008) generated from electroplating operations where cyanides are used in the process; spent stripping and cleaning bath solutions (EPA Hazardous Waste No. F009) generated from electroplating operations where cyanides are used in the process; spent cyanide solutions from salt bath pot cleaning (EPA Hazardous Waste No. F011) generated from metal heat treating operations; quenching wastewater treatment sludges (EPA Hazardous Waste No. F012) generated from metal heat treating where cyanides are used in the process; wastewater treatment sludges (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum after November 14, 1986. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern, the facility must implement a contingency testing program for the petitioned waste. This testing program must meet the following conditions for the exclusions to be valid: (1) Each batch of treatment residue must be representatively sampled and tested using the EP Toxicity test for arsenic, barium, cadmium, chromium, lead, selenium, silver, mercury, and nickel. If the extract concentrations for chromium, lead, arsenic, and silver exceed 0.315 ppm; barium levels exceed 6.3 ppm; cadmium and selenium exceed 0.063 ppm; mercury exceeds 0.0126 ppm; or nickel levels exceed 2.205 ppm; the waste must be re-treated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (2) Each batch of treatment residue must be tested for reactive and leachable cyanide. If the reactive cyanide levels exceed 250 ppm or leachable cyanide levels (using the EP Toxicity test without acetic acid adjustment) exceed 1.26 ppm, the waste must be re-treated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (3) Each batch of waste must be tested for the total content of specific organic toxicants. If the total content of anthracene exceeds 76.8 ppm, 1,2-diphenyl hydrazine exceeds 0.001 ppm, methylene chloride exceeds 8.18 ppm, methyl ethyl ketone exceeds 326 ppm, n-nitrosodiphenylamine exceeds 11.9 ppm, phenol exceeds 1,566 ppm, tetrachloroethylene exceeds 0.188 ppm, or trichloroethylene exceeds 0.592 ppm, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (4) A grab sample must be collected from each batch to form one monthly composite sample which must be tested using GC/MS analysis for the compounds listed in #3, above, as well as the remaining organics on the priority pollutant list. (See 47 FR 52309, November 19, 1982, for a list of the priority pollutants.) (5) The data from conditions 1–4 must be kept on file at the facility for inspection purposes and must be compiled, summarized, and submitted to the Administrator by certified mail semi-annually. The Agency will review this information and if needed will propose to modify or withdraw the exclusion. The organics testing described in conditions 3 and 4, above, are not required until six months from the date of promulgation. The Agency's decision to conditionally exclude the treatment residue generated from the wastewater treatment systems at these facilities applies only to the wastewater and solids treatment systems as they presently exist as described in the delisting petition. The exclusion does not apply to the proposed process additions described in the petition as recovery including crystallization, electrolytic metals recovery, evaporative recovery, and ion exchange.
*	* * * * * * *	

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	* * * * * * *	
Envirite of Illinois (formerly Envirite Corporation).	Harvey, Illinois	See waste description under Envirite of Pennsylvania.
Envirite of Ohio (formerly Envirite Corporation).	Canton, Ohio	See waste description under Envirite of Pennsylvania.

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
Envirite of Pennsylvania (formerly Envirite Corporation).	York, Pennsylvania	Spent pickle liquor (EPA Hazardous Waste No. K062) generated from steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332); wastewater treatment sludge (EPA Hazardous Waste No. K002) generated from the production of chrome yellow and orange pigments; wastewater treatment sludge (EPA Hazardous Waste No. K003) generated from the production of molybdate orange pigments; wastewater treatment sludge (EPA Hazardous Waste No. K004) generated from the production of zinc yellow pigments; wastewater treatment sludge (EPA Hazardous Waste K005) generated from the production of chrome green pigments; wastewater treatment sludge (EPA Hazardous Waste No. K006) generated from the production of chrome oxide green pigments (anhydrous and hydrated); wastewater treatment sludge (EPA Hazardous Waste No. K007) generated from the production of iron blue pigments; oven residues (EPA Hazardous Waste No. K008) generated from the production of chrome oxide green pigments after November 14, 1986. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern, the facility must implement a contingency testing program for the petitioned wastes. This testing program must meet the following conditions for the exclusions to be valid: (1) Each batch of treatment residue must be representatively sampled and tested using the EP Toxicity test for arsenic, barium, cadmium, chromium, lead, selenium, silver, mercury, and nickel. If the extract concentrations for chromium, lead, arsenic, and silver exceed 0.315 ppm; barium levels exceed 6.3 ppm; cadmium and selenium exceed 0.063 ppm; mercury exceeds 0.0126 ppm; or nickel levels exceed 2.205 ppm, the waste must be retreated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (2) Each batch of treatment residue must be tested for reactive and leachable cyanide. If the reactive cyanide levels exceed 250 ppm; or leachable cyanide levels (using the EP Toxicity test without acetic acid adjustment) exceed 1.26 ppm, the waste must be re-treated or managed and disposed as hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR 270. (3) Each batch of waste must be tested for the total content of specific organic toxicants. If the total content of anthracene exceeds 76.8 ppm, 1.2-diphenyl hydrazine exceeds 0.001 ppm, methylene chloride exceeds 8.18 ppm, methyl ethyl ketone exceeds 326 ppm, n-nitrosodiphenylamine exceeds 11.9 ppm, phenol exceeds 1,566 ppm, tetrachloroethylene exceeds 0.188 ppm, or trichloroethylene exceeds 0.592 ppm, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (4) A grab sample must be collected from each batch to form one monthly composite sample which must be tested using GC/MS analysis for the compounds listed in #3, above, as well as the remaining organics on the priority pollutant list. (See 47 FR 52309, November 19, 1982, for a list of the priority pollutants.) (5) The data from conditions 1–4 must be kept on file at the facility for inspection purposes and must be compiled, summarized, and submitted to the Administrator by certified mail semi-annually. The Agency will review this information and if needed will propose to modify or withdraw the exclusion. The organics testing described in conditions 3 and 4, above, is not required until six months from the date of promulgation. The Agency's decision to conditionally exclude the treatment residue generated from the wastewater treatment systems at these facilities applies only to the wastewater and solids treatment systems as they presently exist as described in the delisting petition. The exclusion does not apply to the proposed process additions described in the petition as recovery, including crystallization, electrolytic metals recovery, evaporative recovery, and ion exchange.
*	*	* * * * * *

[FR Doc. 97–436 Filed 1–10–97; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 435

[FRL–5673–8]

RIN 2040–AB72

Final Effluent Limitations Guidelines and Standards for the Coastal Subcategory of the Oil and Gas Extraction Point Source Category; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting minor errors in the preamble and effluent limitations guidelines and standards for the coastal subcategory of the oil and gas extraction point source category, which appeared in the Federal Register on December 16, 1996 (61 FR 66086).

EFFECTIVE DATE: these corrections shall become effective January 15, 1997, except for § 435.45 (NSPS), which becomes effective January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Charles E. White, Office of Water, Engineering and Analysis Division (4303), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, (202) 260–5411, White.Chuck@EPAMail.EPA.Gov.

SUPPLEMENTARY INFORMATION: In a final rule published December 16, 1996 (61 FR 66086), EPA established final effluent limitations guidelines and standards for the control of wastewater pollutants. The final rule contained some minor errors that are discussed briefly below and are corrected by this document. The effective dates and date of issuance for purposes of judicial review are stated in the December 16, 1996 final rule.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issuess as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 435

Environmental protection, Incorporation by reference, Oil and gas extraction, Pollution prevention, Waste treatment and disposal, Water pollution control.

Dated: December 27, 1996.

Robert Perciasepe,

Assistant Administrator for Water.

The following corrections are made in FRL–5648–4, Final Effluent Limitations Guidelines and Standards for the Coastal Subcategory of the Oil and Gas Extraction Point Source Category, which was published in the Federal Register on December 16, 1996 (61 FR 66086).

1. On page 66111, columns two, line 24, the reference to ''Table 10 is corrected to read ''Table 11''.

2. and 3. On page 66111, column two and three, the second Table 10 is correctly designated as Table 11.

4. On page 66111, column three, line 4 of Paragraph B, the reference to ''Table 11'' is corrected to read ''Table 12''.

5. On page 66112, column one, the Table 11 is correctly designated as Table 12.

6. On page 66113, the Table is correctly designated as Table 13.

7. On page 66113, column three, line 13, the reference to ''Table 12'' is corrected to read ''Table 13''.

§ 435.41 [Amended]

8. § 435.41 on page 66127, column one, line 24, the second paragraph (y) is correctly designated (z).

9. § 435.41 on page 66127, paragraph (z) is correctly designated (aa).

10. § 435.41 on page 66127, paragraph (aa) is correctly designated (bb).

11. § 435.41 on page 66127, paragraph (bb) is correctly designated (cc).

12. § 435.41 on page 66127, paragraph (cc) is correctly designated (dd).

13. § 435.41 on page 66127, paragraph (dd) is correctly designated (ee).

14. § 435.41 on page 66127, paragraph (ee) is correctly designated (ff).

15. and 16. On page 66128, § 435.43 includes a table of BAT effluent limitations. The table is corrected to read as follows:

§ 435.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * *

BAT EFFLUENT LIMITATIONS

Stream	Pollutant parameter	BAT effluent limitations
Produced Water:		
(A) All coastal areas except Cook Inlet	.....	No discharge.
(B) Cook Inlet	Oil & Grease	The maximum for any one day shall not exceed 42 mg/l, and the 30-day average shall not exceed 29 mg/l.
Drilling Fluids, Drill Cuttings, and Dewatering Effluent: [1]		
(A) All coastal areas except Cook Inlet	.....	No discharge.
(B) Cook Inlet	Free Oil [2]	No discharge.
	Diesel Oil	No discharge.
	Mercury	1 mg/kg dry weight maximum in the stock barite.
	Cadmium	3 mg/kg dry weight maximum in the stock barite.
	Toxicity	Minimum 96-hour LC50 of the SPP shall be 3 percent by volume.[4]
Well Treatment, Workover and Completion Fluids:		
(A) All coastal areas except Cook Inlet	.....	No discharge.
(B) Cook Inlet	Oil & Grease	The maximum for any one day shall not exceed 42 mg/l, and the 30-day average shall not exceed 29 mg/l.

BAT EFFLUENT LIMITATIONS—Continued

Stream	Pollutant parameter	BAT effluent limitations
Produced Sand	.....	No discharge.
Deck Drainage	Free Oil [3]	No discharge.
Domestic Waste	Foam	No discharge.

[1] BAT limitations for dewatering effluent are applicable prospectively, BAT limitations in this rule are not applicable to discharges of dewatering effluent from reserve pits which as of the effective date of this rule no longer receive drilling fluids and drill cuttings. Limitations on such discharges shall be determined by the NPDES permit issuing authority.
[2] As determined by the static sheen test (see appendix 1 to 40 CFR Part 435, subpart A).
[3] As determined by the presence of a film or sheen upon or a discoloration of the surface of the receiving water (visual sheen).
[4] As determined by the toxicity test (see appendix 2 of 40 CFR Part 435, subpart A).

§ 435.44 [Amended]

17. On page 66128, § 435.44 includes a table of BCT effluent limitations. Footnote 4 on that table should be removed.

18., 19., 20., 21., 22., 23., 24. and 25. On page 66129, § 435.45 includes a table of NSPS effluent limitations. The table is corrected to read as follows:

§ 435.45 Standards of performance for new sources (NSPS).

* * * * *

NSPS EFFLUENT LIMITATIONS

Stream	Pollutant parameter	NSPS effluent limitations
Produced Water:		
(A) All coastal areas except Cook Inlet	.....	No discharge.
(B) Cook Inlet	Oil & Grease	The maximum for any one day shall not exceed 42 mg/l, and the 30-day average shall not exceed 29 mg/l.
Drilling Fluids, Drill Cuttings, and Dewatering Effluent: [1]		
(A) All coastal areas except Cook Inlet	.....	No discharge.
(B) Cook Inlet	Free Oil [2]	No discharge.
	Diesel Oil	No discharge.
	Mercury	1 mg/kg dry weight maximum in the stock barite.
	Cadmium	3 mg/kg dry weight maximum in the stock barite.
	Toxicity	Minimum 96-hour LC50 of the SPP shall be 3 percent by volume.[4]
Well Treatment, Workover and Completion Fluids:		
(A) All coastal areas except Cook Inlet	.....	No discharge.
(B) Cook Inlet	Oil & Grease	The maximum for any one day shall not exceed 42 mg/l, and the 30-day average shall not exceed 29 mg/l.
Produced Sand	.....	No discharge.
Deck Drainage	Free Oil [3]	No discharge.
Sanitary Waste		
Sanitary M10	Residual Chlorine	Minimum of 1 mg/l and maintained as close to this concentration as possible.
Sanitary M9IM	Floating Solids	No discharge.
Domestic Waste	Floating Solids, Garbage and Foam.	No discharge of floating solids or garbage or foam.

[1] NSPS limitations for dewatering effluent are applicable prospectively. NSPS limitations in this rule are not applicable to discharges of dewatering effluent from reserve pits which as of the effective date of this rule no longer receive drilling fluids and drill cuttings. Limitations on such discharges shall be determined by the NPDES permit issuing authority.
[2] As determined by the static sheen test (see appendix 1 to 40 CFR Part 435, subpart A).
[3] As determined by the presence of a film or sheen upon or a discoloration of the surface of the receiving water (visual sheen).
[4] As determined by the toxicity test (see appendix 2 of 40 CFR Part 435, subpart A).

§ 435.10 [Corrected]

26. On page 66129, the section under subpart G currently reads § 435.10. The section number is corrected to read ''§ 435.70''.

[FR Doc. 97–413 Filed 1–10–97; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

[MB–105–FC]

Medicaid Program; Redeterminations of Medicaid Eligibility Due to Welfare Reform

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Contract with America Advancement Act of 1996 created changes in Federal law affecting the eligibility of large numbers of Medicaid recipients. These changes include revisions to the definition of disability for children and to the eligibility requirements of non-U.S. citizens and individuals receiving disability cash assistance based on a finding of alcoholism and drug addiction.

This final rule with comment period protects Federal financial participation

(FFP) in State Medicaid expenditures for States with unusual volumes of eligibility redeterminations caused by these recent changes in the law. We are making changes to the regulations to provide for additional time for States to process these redeterminations and provide services pending the redeterminations.

DATES: Effective date. These regulations are effective on January 13, 1997.

Comments. Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on March 14, 1997.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: MB–105–FC, P.O. Box 7517, Baltimore, Maryland 21207–0517.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–09–26, Central Building, 7500 Security Boulevard, Baltimore, Maryland 21244–1850

Office of Information and Regulatory Affairs.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code MB–105–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Bob Tomlinson, (410) 786–4463.

SUPPLEMENTARY INFORMATION:

I. Background

Two recent laws have brought about major changes in the cash assistance programs under title IV–A (Aid to Families with Dependent Children (AFDC)) and title XVI (Supplemental Security Income (SSI)) of the Social Security Act, with substantial implications for Medicaid eligibility. These two laws are: the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193), enacted on August 22, 1996, and the Contract with America Advancement Act of 1996 (Public Law 104–121), enacted on March 29, 1996. These laws have affected the eligibility of individuals receiving cash payments by replacing the Aid to Families with Dependent Children (AFDC) program with a block grant to States for Temporary Assistance for Needy Families (TANF) and eliminated the automatic linkage between cash assistance to families and children and Medicaid. It replaced the automatic link with special Medicaid eligibility rules primarily based on whether the individuals would have received AFDC benefits under the program in effect on July 16, 1996. These laws also affected the eligibility of children who are receiving disability benefits under SSI, individuals receiving SSI disability benefits based on a finding of alcoholism and drug addiction, and non-U.S. citizens.

In most States, individuals who are eligible for AFDC or SSI are (or were) also automatically eligible for Medicaid. These legislative changes will result in a large number of individuals losing cash assistance eligibility and therefore Medicaid. Under existing regulations at 42 CFR 435.916 and 435.1003, States are required to perform a redetermination of Medicaid eligibility in any case in which an individual loses eligibility based on receipt of cash assistance and that termination affects the individual's eligibility for Medicaid.

The legislative changes have created a substantial new workload for States in the administration of their programs. We estimate that States will have to perform redeterminations on approximately 1.6 million individuals, most of which must occur by July 1, 1997. Considering this volume of redeterminations, we believe that our existing regulations do not allow sufficient time for States to comply with the requirements without risking loss of FFP in their administrative expenditures. Our existing regulations at § 435.916 require that States must ''redetermine the eligibility of Medicaid recipients, with respect to circumstances that may change, at least every 12 months * * *.'' The regulations also require the State to promptly redetermine eligibility when the State agency receives information about changes in a recipient's circumstances that may affect the recipient's eligibility; and, at the appropriate time, when the agency has information about anticipated changed in a recipient's circumstances, such as the loss of SSI payments because the individual has been found ineligible for SSI. This requirement also applies when changes in Federal or State law occur affecting the Medicaid eligibility of individuals or groups. Regulations at § 435.1003 provide that, with respect to individuals who had been eligible for SSI, FFP is available until the end of the month if the SSI termination notice is received from SSA by the 10th of the month; and until the end of the following month if the SSA notice is received after the 10th of the month. Both regulations require that States determine or redetermine eligibility promptly.

States are required to redetermine the Medicaid eligibility of any recipient who loses eligibility based on receipt of cash assistance. The redetermination must examine whether or not the individual would be Medicaid eligible on any other available basis under the State's approved plan. For example, a person who loses SSI may still be eligible for Medicaid as medically needy, optional categorically needy, or even based on receipt of cash assistance under title IV–A. This policy derives in part from the court decisions in *Stenson* v. *Blum*, 476 F.Supp., 1331 (S.D.N.Y. 1979) aff'd without opinion, 628 F.2d 1345 (2d Cir. 1980) and *Massachusetts Association of Older Americans* v. *Sharp* (700 F.2d 749 (1st Cir. 1983). In these cases, the courts ruled that before a State may terminate an individual's Medicaid eligibility, it must redetermine the individual's Medicaid eligibility on any other available basis under the State's approved plan.

Section 435.1003 allows States a limited period of time to perform redeterminations of individuals who have been determined ineligible for SSI in order to be eligible for FFP. The time allowed varies between 20 and 45 days based on the date of receipt of information from SSA about the individual's SSI eligibility.

States have expressed concerns regarding the time required to perform these redeterminations, and thus the implications for potential loss of FFP, given the current regulatory constraints and the complexity of Medicaid eligibility determination and redetermination processes. In situations such as those created by these recent laws, in which States have large redetermination workloads and short timeframes for adjusting the eligibility of affected beneficiaries, they believe that more time is needed. States and HCFA are concerned that retaining the existing time constraints would not allow sufficient time to process such a volume adequately, and would result in sharply increased appeals workloads, and the concomitant delays and expense attendant on such appeals. In some cases, it possibly may result in the

inappropriate loss of Medicaid eligibility and potential harm to the health of recipients. We believe that this approach may also shift the burden of finding a basis for eligibility to the recipient, who may be the least knowledgeable in this area.

II. Provisions of the Final Rule With Comment Period

Under current rules, when changes in Federal law cause a significant change in eligibility for Medicaid and a consequent increase in the eligibility determination/redetermination workload, two equally undesirable results may occur. In an effort to comply with the regulations, States may make inadequate or cursory redeterminations that, in some cases, may result in inappropriate termination of Medicaid eligibility. The affected recipients may be denied medical care or become impoverished attempting to pay for care they do receive. In the alternative, the State may take longer than permitted to make the redetermination and thus risk denial of FFP. In either case, the State risks loss of FFP or incurs increased administrative costs coping with appeals or increased application workloads, while the individual is unnecessarily deprived of the means to pay for needed medical care with attendant adverse consequences.

To promote the proper and efficient administration of the Medicaid program, we believe that when there is a change in Federal law that significantly affects Medicaid eligibility, the Secretary should be able to grant States additional time to redetermine eligibility without risk of loss of FFP and to assure that redeterminations are not performed hastily. We believe the Secretary is best able to determine when additional time and FFP should be granted, because the granting of additional time is intended to be used only when Federal law makes significant changes in Medicaid eligibility requiring voluminous redeterminations of eligibility.

Therefore, we have determined that when changes in Federal law cause sharp increases in State eligibility redetermination workloads, the Secretary should have the flexibility to authorize additional time during which FFP would be available. Such flexibility assures that FFP will be available to meet the redetermination workload while assuring that the time and FFP available are directly proportional to the expected volume of redeterminations arising from the particular legislation.

A grant of additional time would be made only in exceptional circumstances, such as the passage of recent Public Laws 104–193 and 104–121. This legislation requires a significant volume of redeterminations, estimated at upwards of 1.6 million, most of which must be performed within the next 9 months. It is for this reason that we are providing in this notice that States may take up to 120 days to process all redeterminations of Medicaid eligibility governed by 42 CFR § 435.1003 through the end of calendar year 1997 unless the Secretary further extends the waiver.

The issue of whether more time should be routinely available to States for completing redeterminations will likely be dealt with in a separate regulation at a future date. We are not addressing that issue in this regulation because we do not believe it is an appropriate subject for an emergency regulation.

We considered providing a fixed but longer period of time than that currently provided in § 435.1003. However, such a fixed period would not address the type of extraordinary circumstance, such as welfare reform, which necessitates the changes we are making in this final rule with comment period.

An alternative approach to providing more time, consistent with the theme that a uniform time for redeterminations be used, would be to provide 60 days to redetermine Medicaid eligibility for anyone losing SSI or cash assistance under title IV–A, or in cases where there is a change in circumstances of the recipient. This alternative would include an escape clause similar to one already in existence in § 435.911, which permits States to take longer to make eligibility determinations than the generally specified time period, when extraordinary circumstances prevent adherence to the time standards. Such an escape clause would permit States to take longer when a change in Federal law necessitates large numbers of redeterminations without risking loss of FFP. We did not adopt this option because of concerns that such an open-ended redetermination period would require substantially more monitoring by the Federal Government and recordkeeping by States to ensure that when a State uses the escape clause, the use is justified and the period of time for which it is used is reasonable.

We are adding a new paragraph (c) to §435.1003 to provide that when a change in Federal law affects the eligibility of large numbers of Medicaid recipients, the Secretary may waive the otherwise applicable FFP requirements and redetermination time limits. This is done to make FFP available for a reasonable period of time, designated by the Secretary, while States redetermine the eligibility of Medicaid recipients. These recipients may otherwise lose Medicaid eligibility, possibly due to loss of SSI eligibility, because of a change in Federal law. In such situations, the States are given a reasonable period of time, designated by the Secretary, to do the redetermination.

III. Waiver of Proposed Rule and 30-Day Delay in the Effective Date

We ordinarily publish a notice of proposed rulemaking in the Federal Register for a substantive rule to provide a period for public comment. However, we may waive that procedure if we find good cause that notice and comment are impractical, unnecessary, or contrary to the public interest. In addition we also normally provide a delay of 30 days in the effective date. However, if adherence to this procedure would be impractical, unnecessary, or contrary to public interest, we may waive the delay in the effective date.

We are adopting this regulation as a final with comment period without publication of a notice of proposed rule making because of the urgent need to provide the States with FFP in their Medicaid expenditures for additional time for completing the massive number of redeterminations caused by the recent statutory changes. This need is critical because States must begin redetermining eligibility for large numbers of individuals who may lose Medicaid or SSI beginning January 1, 1997. Publication of a proposed rule with a 60-day comment period prior to publication of a final rule would cost valuable time in processing the mandated redeterminations, and would leave large numbers of beneficiaries without Medicaid or SSI beginning January 1, 1997. Thus, we believe that it is contrary to the public interest to delay implementation of the statutory provisions until the process of publishing both proposed and final rules can be completed. Therefore, we find good cause to waive proposed rulemaking and to issue these regulations as final.

Also, because States must begin such redeterminations as of January 1, 1997, we are not making the effective date of the regulation the usual 30 days after publication. Instead, we will make the regulation effective on the date of publication. For the reasons discussed above, we find good cause to waive the usual 30-day delay so that the provisions may take effect upon publication of this final rule with comment period.

Although we are publishing this as a final rule, we are providing a 60-day period for public comment. Because of the large number of items of

correspondence we normally receive concerning regulations, we are not able to acknowledge or respond to the comments individually. However, if we decide that changes are necessary as a result of our consideration of timely comments, we will issue a final rule and respond to the comments in the preamble of that rule.

IV. Regulatory Impact Statement

For final rules with comment period, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless we certify that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of a RFA, individuals and States are not considered to be small entities.

In addition, section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any final rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. With the exception of hospitals located in certain rural counties adjacent to urban areas, for purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We estimate that the costs of performing the redeterminations arising from recent Federal laws will be substantial. We expect that nearly 1,600,000 individuals will have their eligibility redetermined. Of this number, most are SSI-eligible individuals, and of these, 500,000 involve redetermination of disability. We estimate that the cost to the Medicaid program, emanating from Public Laws 104–193 and 104–121, of allowing a longer period of time to make eligibility redeterminations on those individuals who may lose benefits to be approximately $50 million (Federal share) in FY 1998. This is estimated on the basis of the redeterminations occurring within one year of implementation of this rule and requiring an approximate extra 75 days to complete.

Because these final regulations affect only States and individuals, which are not defined as small entities, we have determined, and we certify, that this rule will not have a significant economic impact under the threshold criteria of the RFA. Further, we certify, for the same reasons, that this final rule does not have a significant impact on the operations of a substantial number of small rural hospitals. Therefore, we have not prepared a regulatory flexibility analysis or an analysis of the effects of this rule on small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

V. Collection of Information Requirements

This rule does not impose any new information collection or recordkeeping requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) The existing collection requirements under § 435.1003 are currently approved under OMB approval number 0938–0247 through May 31, 1997.

Redetermination of eligibility is currently required for all individuals whose eligibility is affected either by change in law or change in individual circumstances. The passage of Public Laws 104–193 and 104–121 requires that SSA redetermine the SSI eligibility of large numbers of recipients. Once SSA issues redetermination notices to the affected individuals, States must redetermine Medicaid eligibility of these individuals. Regulations at § 435.1003 require that such redeterminations be performed promptly. These new rules will not change the redetermination requirement and the associated paperwork needed to perform a redetermination. However, because of the change in Federal law, there will be a substantial increase in the volume of redeterminations States will have to make. These regulations are designed to relieve the States of the pressures and costs of these redeterminations by providing both more time and FFP to conduct the redeterminations and to provide FFP in Medicaid expenditures while the redeterminations are pending.

We estimate that each redetermination will involve approximately 18 hours.

List of Subjects in 42 CFR Part 435

Aid to Families with Dependent Children, Grant programs—health, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Wages.

42 CFR Part 435 is amended as follows:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

1. The authority citation for part 435 continues to read as follows:

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 435.1003, the title is revised, and a new paragraph (c) is added to read as follows:

§ 435.1003 FFP for redeterminations.

* * * * *

(c) When a change in Federal law affects the eligibility of substantial numbers of Medicaid recipients, the Secretary may waive the otherwise applicable FFP requirements and redetermination time limits of this section, in order to provide a reasonable time to complete such redeterminations. The Secretary will designate an additional amount of time beyond that allowed under paragraphs (a) and (b) of this section, within which FFP will be available, to perform large numbers of redeterminations arising from a change in Federal law.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: December 10, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: December 20, 1996.

Donna E. Shalala,

Secretary.

[FR Doc. 97–673 Filed 1–10–97; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7655]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U. S. C. 601 et seq., because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of §64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Michigan: Burnside, township of, Lapeer County	260960	November 6, 1996	
Texas: Onalaska, city of, Polk County	480974	.....do	November 26, 1976.
Kentucky: McCreary County, unincorporated areas	210343	November 19, 1996	November 25, 1977.
Virginia: Charlotte County, unincorporated areas	510333	November 26, 1996	June 7, 1978.
New Eligibles—Regular Program			
Puerto Rico: Bayamón,[1] Municipality of, Bayamón County	720100	November 19, 1996	September 20, 1996.
Texas: Anna, city of, Collin County	480132	November 29, 1996	January 19, 1996.
Reinstatements			
New Jersey: Fairview, borough of, Bergen County	340043	July 16, 1975, Emerg.; August 2, 1982, Reg.; September 20, 1995, Susp.; November 15, 1996, Rein.	September 20, 1995.
New York: Lake George, village of, Warren County	360877	April 23, 1975, Emerg.; June 22, 1984, Reg.; September 29, 1996, Susp.; November 19, 1996, Rein.	September 29, 1996.
Pennsylvania:			
Nicholson, township of, Fayette County	422420	July 29, 1975, Emerg.; September 4, 1991, Reg.; September 6, 1995, Susp.; November 19, 1996, Rein.	September 6, 1995.
East Pikeland, township of, Chester County	421483	September 6, 1974, Emerg.; March 16, 1981, Reg.; March 16, 1981, Susp.; April 27, 1981, Rein; November 20, 1996, Susp.; November 29, 1996, Rein.	November 20, 1996.

State/location	Community No.	Effective date of eligibility	Current effective map date
West Bradford, township of, Chester County	421495	February 10, 1975, Emerg.; July 16, 1981, Reg.; November 20, 1996, Susp.; November 29, 1996, Rein.	Do.
Regular Program Conversions			
Region I			
Massachusetts: Nantucket, town of, Nantucket County	250230	November 6, 1996, Suspension Withdrawn	November 6, 1996.
Region III			
Pennsylvania:			
Auburn, borough of, Schuylkill County	420766	.....do	Do.
Schuylkill Haven, borough of, Schuylkill County	420787	.....do	Do.
South Manheim, township of, Schuylkill County	422022	.....do	Do.
Region V			
Michigan: Muir, village of, Ionia County	260916	.....do	Do.
Wisconsin: New Berlin, City of, Waukesha County	550487	.....do	Do.
Region VI			
Texas:			
Baytown, city of, Harris County	485456	.....do	Do.
Bellaire, city of, Harris County	480289	.....do	Do.
Chelford City M.U.D., Harris County	481568	.....do	Do.
Deer Park, city of, Harris County	480291	.....do	Do.
El Lago, city of, Harris County	485466	.....do	Do.
Fort Bend County M.U.D. No. 2, Harris County	481272	.....do	Do.
Galena Park, city of, Harris County	480293	.....do	Do.
Harris County, unincorporated areas	480287	.....do	Do.
Hilshire Village, city of, Harris County	480295	.....do	Do.
Houston, city of, Harris County	480296	.....do	Do.
Hunters Creek Village, city of, Harris County	480298	.....do	Do.
Jacinto City, city of, Harris County	480299	.....do	Do.
Jersey Village, city of, Harris County	480300	.....do	Do.
La Porte, city of, Harris County	485487	.....do	Do.
Mission Bend M.U.D. No. 1, Harris County	481578	.....do	Do.
Missouri City, city of, Harris County	480304	.....do	Do.
Morgans Point, city of, Harris County	480305	.....do	Do.
Nassau Bay, city of, Harris County	485491	.....do	Do.
Pasadena, city of, Harris County	480307	.....do	Do.
Pearland, city of, Harris County	480077	.....do	Do.
Piney Point Village, city of, Harris County	480308	.....do	Do.
Seabrook, city of, Harris County	485507	.....do	Do.
Shoreacres, city of, Harris County	485510	.....do	Do.
South Houston, city of, Harris County	480311	.....do	Do.
Southside Place, city of, Harris County	480312	.....do	Do.
Spring Valley, city of, Harris County	480313	.....do	Do.
Tomball, city of, Harris County	480315	.....do	Do.
Webster, city of, Harris County	485516	.....do	Do.
Willow Fork Drainage District, Harris County	481603	.....do	Do.
Region X			
Washington: Thurston County, unincorporated areas	530188	.....do	Do.
Region III			
Pennsylvania:			
Avondale, borough of, Chester County	421473	November 20, 1996, Suspension Withdrawn.	November 20, 1996.
Birmingham, township of, Chester County	421474	.....do	Do.
Caln, township of, Chester County	422247	.....do	Do.
Charlestown, township of, Chester County	421475	.....do	Do.
Coatesville, city of, Chester County	420274	.....do	Do.
Downingtown, borough of, Chester County	420275	.....do	Do.
East Bradford, township of, Chester County	420276	.....do	Do.
East Brandywine, township of, Chester County	421476	.....do	Do.
East Caln, township of, Chester County	421477	.....do	Do.
East Coventry, township of, Chester County	421478	.....do	Do.
East Fallowfield, township of, Chester County	421479	.....do	Do.
East Goshen, township of, Chester County	420277	.....do	Do.
East Marlborough, township of, Chester County	421480	.....do	Do.
East Nantmeal, township of, Chester County	421481	.....do	Do.
East Nottingham, township of, Chester County	421482	.....do	Do.
East Vincent, township of, Chester County	420278	.....do	Do.
East Whiteland, township of, Chester County	420279	.....do	Do.
Easttown, township of, Chester County	422600	.....do	Do.
Franklin, township of, Chester County	422288	.....do	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date
Kennett, township of, Chester County	422586	.....do	Do.
Kennett Square, borough of, Chester County	420280	.....do	Do.
London Britain, township of, Chester County	422273	.....do	Do.
Londonderry, township of, Chester County	421484	.....do	Do.
Lower Oxford, township of, Chester County	421485	.....do	Do.
New London, township of, Chester County	422276	.....do	Do.
North Coventry, township of, Chester County	420283	.....do	Do.
Oxford, borough of, Chester County	420284	.....do	Do.
Pennsbury, township of, Chester County	420285	.....do	Do.
Phoenixville, borough of, Chester County	420287	.....do	Do.
Pocopson, township of, Chester County	420286	.....do	Do.
Sadsbury, township of, Chester County	421488	.....do	Do.
Schuylkill, township of, Chester County	421489	.....do	Do.
South Coatesville, borough, Chester County	420288	.....do	Do.
South Coventry, township of, Chester County	421490	.....do	Do.
Thornbury, township of, Chester County	420290	.....do	Do.
Upper Oxford, township of, Chester County	422278	.....do	Do.
Upper Uwchlan, township of, Chester County	421491	.....do	Do.
Uwchlan, township of, Chester County	421492	.....do	Do.
Valley, township of, Chester County	421206	.....do	Do.
Wallace, township of, Chester County	421493	.....do	Do.
West Caln, township of, Chester County	421497	.....do	Do.
West Chester, borough of, Chester County	420292	.....do	Do.
West Fallowfield, township of, Chester County	422602	.....do	Do.
West Goshen, township of, Chester County	420293	.....do	Do.
West Nantmeal, township of, Chester County	421498	.....do	Do.
West Marlborough, township of, Chester County	422279	.....do	Do.
West Nottingham, township of, Chester County	422280	.....do	Do.
West Whiteland, township of, Chester County	420295	.....do	Do.
Westtown, township of, Chester County	420294	.....do	Do.
Willistown, township of, Chester County	422282	.....do	Do.
Region V			
Illinois:			
Aroma Park, village of, Kankakee County	170740	.....do	Do.
Momence, city of, Kankakee County	170340	.....do	Do.
Michigan: Bruce, township of, Macomb County	260884	.....do	Do.

[1] The Municipality of Bayamón is a new community (as a separate entity) that formerly participated under the Commonwealth of Puerto Rico's application. The Municipality of Bayamón has adopted by reference the Commonwealth of Puerto Rico's FIRM (latest FIRMs are dated February 18, 1992 and September 20, 1996) for floodplain management and insurance purposes. (Panels No. 0047D, 048B, 0049, 0053C, 0108C, 0110C)

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Issued: January 6, 1997.

Craig S. Wingo,

Deputy Associate Director, Mitigation Directorate.

[FR Doc. 97–741 Filed 1–10–97; 8:45 am]

BILLING CODE 6718–05–P

44 CFR Part 64

[Docket No. FEMA–7656]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is

published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Executive Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of §64.6 are amended as follows:

State/Location	Community No.	Effective date of eligibility	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Region I				
Connecticut: Clinton, town of, Middlesex County.	090061	Mar. 2, 1973, Emerg; Sept. 30, 1980, Reg; Jan. 17, 1997, Susp.	Jan. 17, 1997	Jan. 17, 1997.
Vermont: Weston, town of, Windsor County	500157	July 25, 1974, Emerg; Apr. 1, 1992, Reg; Jan. 17, 1997, Susp.	.....do	Do.
Region II				
New York: Owego, town of, Tioga County	360839	Dec. 29, 1972, Emerg; June 15, 1977, Reg; Jan. 17, 1997, Susp.	.....do	Do
Region III				
Pennsylvania: Flemington, borough of, Clinton County.	420326	Mar. 9, 1973, Emerg; Nov. 2, 1977, Reg; Jan. 17, 1997, Susp.	.....do	Do
Region IV				
Tennessee:				
Sevierville, city of, Sevier County	475444	Oct. 23, 1970, Emerg; Mar. 27, 1971, Reg; Jan. 17, 1997, Susp.	.....do	Do
Shelbyville, city of, Bedford County	470008	Feb. 8, 1974, Emerg; Feb. 17, 1988, Reg; Jan. 17, 1997, Susp.	.....do	Do
Region V				
Michigan: Torch Lake, township of, Antrim County.	260414	Apr. 1, 1975, Emerg; June 16, 1992, Reg; Jan. 17, 1997, Susp.	.....do	Do

State/Location	Community No.	Effective date of eligibility	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Region VII				
Missouri: Greene County, unincorporated areas.	290782	Apr. 15, 1975, Emerg; June 15, 1983, Reg; Jan. 17, 1997, Susp.	.....do	Do

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Issued: January 6, 1997.

Craig S. Wingo,

Deputy Associate Director Mitigation Directorate.

[FR Doc. 97–742 Filed 1–10–97; 8:45 am]

BILLING CODE 6718–05–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. 96–17; Notice 02]

RIN 2127–AG34

Final Listing of High-Theft Lines for 1997 Model Year; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; correction.

SUMMARY: This document corrects errors in the final listing of high-theft lines for the 1997 Model Year (MY), that was published on April 8, 1996 (61 FR 15390) by incorporating information that manufacturers brought to the agency's attention subsequent to the final listing. In the amended list in this document, three footnote errors are corrected, errors in the names of three Honda lines, the Acura CLX, the Acura Legend, and the Acura Vigor are corrected; and two Chrysler lines, the Dodge Ramcharger (MPV) and the Dodge Ram Wagon/Van B–150, three General Motors' lines, the Buick Century, the GMC Sierra 1500 Pickup and the C–1500 Pickup are removed; a Chrysler line, the Jeep Grand Cherokee (MPV), a Ford line, the Lincoln Town Car, a General Motors' line, the Geo Prizm, and a Mercedes-Benz model, the 560 SL are added to Appendix A; a Honda line, the Acura TL is removed from Appendix A and added to Appendix A–I, the Acura SLX is added to Appendix A–I; a General Motors' line, the Buick Regal is removed from Appendix A–I and the Buick Regal/Century line is added; and, the Buick Park Avenue is removed from Appendix A–II and added to Appendix A–I.

EFFECTIVE DATE: The amendment made by this final rule is effective January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Motor Vehicle Theft Group, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Ms. Proctor's telephone number is (202) 366–1740. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: NHTSA is correcting errors in the final list of high-theft vehicle lines for Model Year (MY) 1997, that appeared in the Federal Register on April 8, 1996 (61 FR 15390). This correction document incorporates updated information brought to NHTSA's attention subsequent to the publication of the final list for MY 1997. The following are corrections to Appendix A of 49 CFR Part 541, the Theft Prevention Standard:

The second footnote ''1'' erroneously listed in Appendix A is correctly redesignated as footnote ''2''. Additionally, the Suzuki ''X–90'' erroneously listed in Appendix A with a footnote reference of ''1'' is corrected to indicate a footnote reference of ''2'', and the Toyota ''MR2'' erroneously listed with a footnote reference of ''2'' is correctly redesignated by removing the footnote reference.

The Honda lines, erroneously listed as ''Acura CLX'', Acura Legend'', and ''Acura Vigor'' have been identified respectively, ''Acura CL'', ''Acura RL'' and ''Acura TL''. The General Motors' line, erroneously listed as ''Buick Regal'' has been identified respectively, ''Buick Regal/Century''.

Comments were received from American Honda Motor Co., Inc., requesting that the ''Acura TL'' line which was erroneously listed in Appendix A, be deleted from the listing because it has received a full exemption from the parts-marking requirements based on the installation of a qualified antitheft device as standard equipment on the entire line. The Honda ''Acura TL'' which replaced the ''Acura Vigor'' will be deleted from Appendix A.

Comments were received from the Chrysler Corporation, Automobiles Peugeot, and Jaguar Cars, each requesting that one vehicle line be deleted from the list because it is no longer being produced. Those lines are the Chrysler ''Dodge Ramcharger (MPV)'', the ''Peugeot 405'', and the ''Jaguar XJ40''. The Chrysler ''Dodge Ramcharger (MPV)'' will be deleted from Appendix A, since it was not covered prior to MY 1997 and has not been manufactured for sale in the United States since MY 1995. Additionally, the General Motors' ''Buick Century'' is removed from Appendix A because it was not covered by the Theft Prevention Standard prior to MY 1997 and will not be produced after the 1996 model year.

The agency understands Peugeot's and Jaguar's reasons for requesting deletion of the ''405'' and ''XJ40'' from the list of vehicles subject to the parts-marking requirements of the Theft Prevention Standard. However, NHTSA cannot delete the ''Peugeot 405'' from the list because it has been covered by the Theft Prevention Standard since MY 1989, and the ''Jaguar XJ40'' has been covered since the 1987 model year. Pursuant to 49 U.S.C. § 33104(d), a vehicle line on the list of lines subject to parts marking cannot be removed from that list unless the manufacturer has obtained an exemption from the parts-marking requirement based on the installation of a qualified antitheft device as standard equipment on the entire line.

The Chrysler ''Dodge Ram Wagon/Van B–150'', the General Motors' ''GMC Sierra 1500 Pickup'' and the ''Chevrolet C–1500 Pickup'' are removed from Appendix A, as they are rated at more than 6,000 pounds gross vehicle weight.

The ''Jeep Grand Cherokee (MPV)'' is added to the Chrysler listing in Appendix A; and Ford's line, the ''Lincoln Town Car'', the General Motors' line, the ''Geo Prizm'', and the Mercedes-Benz model, ''560 SL'' were inadvertently left out in the final list for

MY 1997, and are added in this document.

In addition, the Honda line, the ''Acura SLX'', which is certified by Isuzu, is added to the Appendix A–I listing, the General Motors'' line, the ''Buick Park Avenue'' is removed from the Appendix A–II listing and added to the listing in Appendix A–I because each of these lines have been granted full exemptions from the parts-marking requirements beginning with the 1997 model year. Additionally, the ''Buick Regal'' is removed from the Appendix A-I listing and the ''Buick Regal/Century'' line is added because the parts-marking exemption granted for the ''Buick Regal'' has been extended by the agency to include the new ''Buick Century'' model added to the ''Buick Regal'' line beginning with the 1997 model year.

Since the corrections made by this document only inform the public of previous agency actions, and do not impose any additional obligations on any party, NHTSA finds for good cause that the revisions made by this notice should be effective as soon as it is published in the Federal Register.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 541 is amended as follows:

PART 541—[AMENDED]

1. The authority citation for Part 541 continues to read as follows:

Authority: 15 U.S.C. 2021–2024, and 2026; delegation of authority at 49 CFR 1.50.

Appendix A—[Amended]

2. Appendix A is amended as follows:

a. In the entry for ''Chrysler'', ''Dodge Ramcharger (MPV) [2]'' and ''Dodge Ram Wagon/Van B–150 [2]'' are removed; ''Jeep Grand Cherokee (MPV) [2]'' is added after ''Jeep Cherokee (MPV) [2]''.

b. In the entry for ''Ford'', ''Lincoln Town Car'' is added after ''Lincoln Mark''.

c. In the entry for ''General Motors'', ''Buick Century [2]'', ''GMC Sierra 1500 Pickup [2]'', and ''Chevrolet C–1500 Pickup [2]'' is removed; ''Geo Prizm'' is added after ''Geo Tracker (MPV) [2]''.

d. In the entry for ''Honda'', ''TL'' is removed.

e. In the entry for ''Mercedes-Benz'' ''560 SL'' is added after ''560 SEC''.

f. In the entry for ''Suzuki'', ''X–90 [1]'' is revised to read ''Suzuki'' ''X–90 [2]''.

g. In the entry for ''Toyota'', ''MR [2]'' is revised to read ''Toyota'' ''MR2''.

h. In the table in Appendix A, the second footnote ''1'' at the end of the table is correctly redesignated as footnote ''2''.

Appendix A–I—[Amended]

3. Appendix A–I is amended as follows:

a. In the entry for ''General Motors'', ''Buick Park Avenue [2]'' is added before ''Buick Regal''.

b. In the entry for ''General Motors'', ''Buick Regal'' is removed.

c. In the entry for ''General Motors'', ''Buick Regal/Century [2]'' is added before ''Buick Riviera''.

d. In the entry for ''Honda'', ''Acura CLX [2]'' is revised to read ''Acura CL [2]''.

e. In the entry for ''Honda'', ''Acura RL'' is added after ''Acura NS–X''.

f. In the entry for ''Honda'', ''Acura TL'' is added before ''Acura Vigor''.

g. In the entry for ''Honda'', ''Acura SLX'' is added after newly added ''Acura RL''.

Appendix A–II—[Amended]

4. Appendix A–II is amended as follows:

In the entry for ''General Motors'', ''Buick Park Avenue'' is removed.

Issued on: December 18, 1996.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–757 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD47

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Juglans jamaicensis

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines *Juglans jamaicensis* (nogal or West Indian walnut) to be an endangered species pursuant to the Endangered Species Act of 1973, as amended (Act). Nogal is known from the islands of Hispaniola, Cuba, and Puerto Rico.

In Puerto Rico, this large tree is known from only 14 individuals at one locality in Adjuntas. The area is located near the Monte Guilarte Commonwealth Forest but is in private ownership and threatened by land-clearing for agriculture and rural development. This final rule provides *Juglans jamaicensis* with the Federal protection and recovery provisions afforded by the Act for listed species.

EFFECTIVE DATE: February 12, 1997.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours, at the Boquerón Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander, Botanist, at the Caribbean Field Office address (809/851–7297).

SUPPLEMENTARY INFORMATION:

Background

Juglans jamaicensis (nogal or West Indian walnut) was first described as *J. jamaicensis* by DeCandolle from a description and illustration of leaves, staminate catkin and fruit by Descourtilz which had been published under the name of *Juglans fraxinifolia.* DeCandolle mistakenly believed that the tree Descourtilz had illustrated originated in Jamaica, when in reality no walnut tree has ever been located in Jamaica. Synonyms which have been applied to the species include *Juglans fraxinifolia* Descourtilz, J. *cinerea* of Bello, *J. insularis* Griseb., *J. portoricensis* Dode, and *J. domingensis* (Proctor 1992).

Juglans jamaicensis is known from Cuba, Hispaniola and Puerto Rico but little information is currently available on its status in the first two countries (Liogier and Martorell 1982). It has been described by the Center for Plant Conservation (1992) as ''not common'' and by Proctor (1992) as becoming increasingly rare on these two islands.

Nogal was first collected from Puerto Rico by Augustin Stahl around 1865. This collection was from an area between Peñuelas and Adjuntas at an elevation of approximately 700 meters (2,297 feet). The species was subsequently collected by the German botanist Paul Sintenis in 1886 from somewhere near Adjuntas (Saltillo) and again in 1887 near Utuado (Santa Rosa). An additional collection was made by Bartolomé Barcela in 1915 from an area near Adjuntas (Little *et al.* 1974, Proctor 1992). Little *et al.* (1974) stated that the species might possibly be extinct.

It was not reported again until 1974 when it was rediscovered by Roy O. Woodbury from the upper north slopes (an elevation of 1070 meters (3,510 feet)) of Cerro La Silla de Calderón, an area located near the southwest corner of the municipality of Adjuntas. A survey of these trees was made in 1992 by Salvador Alemañy of the U.S. Forest Service. A total of 14 individuals were documented, the largest of which was more than 20 meters (66 feet) in height. The species has been reported from montane forests at elevations between

700 and 1,000 meters (2,297 and 3,281 feet) (Proctor 1992).

Juglans jamaicensis is a large tree which may reach up to 25 meters (82 feet) in height. Twigs, buds, and leaf-axes have minute rusty hairs. The leaves are alternate and compound and consist of from 16 to 20 mostly paired, nearly stalkless leaflets. Leaflets are from 5.5 to 9 centimeters (5.5 to 9 inches) long and 2.2 to 4 centimeters (0.9 to 1.6 inches) wide, thin and nearly hairless except on the veins beneath. Leaflets are lanceolate, finely toothed, long-pointed and rounded, and unequal at the base. Nogal is monoecious; male and female flowers are borne in different clusters or catkins on the same tree. Staminate or male flowers are numerous and in drooping catkins, 8.8 to 11 centimeters (3.5 to 4.3 inches) long, borne on the twigs of the previous year. Pistillate or female flowers are several along an axis 4.4 to 8.8 centimeters (1.7 to 3.5 inches) long, borne at the ends of the shoots of the season. Individual male flowers are composed of a 6-lobed calyx and many stamens. Female flowers are about 0.5 centimeters (0.2 inches) long, composed of a 4-toothed scale opening at one side and 4 sepals. The fruit, a drupe, is a walnut which is composed of a blackish husk, a brown rough-ridged hard shell from 1.6 to 2.75 centimeters (0.6 to 1.1 inches) wide and one large, oily, edible seed (Little *et al.* 1974, Proctor 1992).

Juglans jamaicensis may have been more widespread in Puerto Rico in the past, but much of the forested areas in the central mountain region were cut for the planting of coffee. The species, possibly never a common one, may also have been cut for the use of its valuable wood (Little *et al.* 1974). Today it is known from only one locality on privately-owned land where it is threatened by rural development and agricultural activity.

Previous Federal Action

Juglans jamaicensis was included among the plants being considered as a Candidate for listing by the Service, as published in the Federal Register notice of review dated February 21, 1990 (55 FR 6184) and September 31, 1993 (58 FR 51144). *Juglans jamaicensis* is considered a ''critical'' plant species by the Natural Heritage Program of the Puerto Rico Department of Natural and Environmental Resources. The Center for Plant Conservation (1992) has assigned the species a Priority Status of A (a species which could possibly go extinct in the wild in the next 5 years). A proposed rule to list *Juglans jamaicensis,* published on September 29, 1995 (60 FR 50173), constituted the final 1-year finding for the species in accordance with section 4(b)(3)(B)(ii) of the Act.

The processing of this final rule conforms with the Service's final listing priority guidance published in the Federal Register on May 16, 1996 (61 FR 24722). The guidance clarifies the order in which the Service will process rulemakings following two related events—(1) the lifting, on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Public Law 104–6), and (2) the restoration of significant funding for listing through the passage of the omnibus budget reconciliation law on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. The guidance calls for giving highest priority to handling emergency situations (Tier 1) and second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings. This final rule falls under Tier 2. At this time, there are no pending Tier 1 actions. In the development of this final rule, the Service has conducted an internal review of all available information. Based on this review, the Service has determined that there is no new information that would substantatively affect this listing decision and that additional public comment is not warranted.

Summary of Comments and Recommendations

In the September 29, 1995, proposed rule and associated notifications, all interested parties were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the San Juan Star on October 27, 1995, and in El Nuevo Día on October 25, 1995. Two letters of comment were received, neither of which opposed the listing. The Puerto Rico Planning Board did not have comments on the listing but stated that they would utilize the information in the evaluation of projects which might affect the species. The U.S. Forest Service, Institute of Tropical Forestry (Institute), supported the listing of nogal, stating that the trees had not reproduced successfully recently but had, in the past, served as a source for seed. This seed source had been used to propagate seedlings in nurseries of the Puerto Rico Department of Natural and Environmental Resources, the Puerto Rico Conservation Trust, and the Institute. Concern was expressed that this successful propagation effort not be jeopardized. A public hearing was neither requested nor held.

The Service also solicited the expert opinions of four appropriate and independent specialists regarding the pertinent scientific or commercial data and assumptions relating to taxonomy, population models, and biological and ecological information for this species. One response was received and those comments on biology and propagation have been incorporated into the final rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Juglans jamaicensis* should be classified as an endangered species. Procedures found at Section 4(a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424) were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Juglans jamaicensis* (nogal or West Indian walnut) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Juglans jamaicensis is known only from Cuba, Hispaniola, and Puerto Rico. Available information indicates that it is rare on the first two islands (CPC 1992, Proctor 1992). In Puerto Rico, it is known from only one population consisting of 14 individuals on privately-owned land. Surrounding areas are currently planted in coffee. The expansion of the coffee plantation threatens these trees, particulary because the tendency to plant ''sun coffee'' is increasing and in such plantations all shade trees are eliminated. Located in a rural area, development for housing may threaten the species as well.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The wood of the species is reported to be good quality and highly prized, and indeed, it is reported to have been cut in the past for such purposes (Little *et al.* 1974).

C. Disease or Predation

Disease and predation have not been documented as factors in the decline of this species.

D. The Inadequacy of Existing Regulatory Mechanisms

The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species.

However, *Juglans jamaicensis* is not yet on the Commonwealth list. Federal listing would provide immediate protection under the Act, and by virtue of an existing section 6 Cooperative Agreement with the Commonwealth, listing will also assure the addition of this species to the Commonwealth list and enhance possibilities for funding needed research.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

One of the most important factors affecting the continued survival of this species is its limited distribution. Because so few individuals are known to occur in a limited area, the risk of extinction is extremely high. Catastrophic natural events, such as the passing of Hurricane Hugo in 1989, may dramatically affect forest species composition and structure, felling large trees and creating numerous canopy gaps.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Juglans jamaicensis* as endangered. The species is known from only one locality in Puerto Rico. Deforestation for rural and agricultural development are imminent threats to the survival of the species. Therefore, endangered rather than threatened status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for these species are discussed below in the ''Critical Habitat'' section.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Juglans jamaicensis*. Service regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

The number of individuals of *Juglans jamaicensis* is sufficiently small and vandalism and collection could seriously affect the survival of the species. The wood of the species has been described as ''highly prized'' and cutting for timber has been identified as a factor affecting the species in the past. Publication of critical habitat descriptions and maps in the Federal Register would increase the likelihood of such activities. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting these species' habitat. Protection of these species' habitat will also be addressed through the recovery process and through the section 7 jeopardy standard. The precarious status of *Juglans jamaicensis* necessitates identical thresholds for determining adverse modification of critical habitat and jeopardizing the continued existence of the species. Therefore, no additional protection from designating critical habitat would occur for this species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups and individuals. The Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for this species, as discussed above. Federal involvement may be through the use of Federal funding for rural housing and development (for example, the Rural Economic and Community Development or Housing and Urban Development) or Federal activities or authorizations (for example, U.S. Forest Service for forest management practices on private lands).

The Act and its implementing regulations set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is

anticipated that few trade permits for this species will ever be sought or issued, since the species is not known to be in cultivation and is uncommon in the wild.

It is the policy of the Service, published in the Federal Register on July 1, 1994 (59 FR 34272) to identify to the maximum extent practicable those activities that would or would not constitute a violation of section 9 of the Act at the time of listing. The intent of this policy is to increase public awareness of the effect of listing on proposed or ongoing activities. The only known population of *Juglans jamaicensis* is located on privately-owned land. Since there is no Federal ownership, and the species is not currently in trade, the only potential section 9 involvement would relate to removing or damaging the plant in knowing violation of Commonwealth law, or in knowing violation of Commonwealth criminal trespass law. Section 15.01(b) of the Commonwealth ''Regulation to Govern the Management of Threatened and Endangered Species in the Commonwealth of Puerto Rico'' states: ''It is illegal to take, cut, mutilate, uproot, burn or excavate any endangered plant species or part thereof within the jurisdiction of the Commonwealth of Puerto Rico.'' The Service is not aware of any otherwise lawful activities being conducted or proposed by the public that will be affected by this listing and result in a violation of section 9.

Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Caribbean Field Office (see **ADDRESSES** section). Requests for copies of the regulations on listed species and inquiries regarding prohibitions and permits should be addressed to the U.S. Fish and Wildlife Service, Ecological Services (TE), 1875 Century Boulevard, Atlanta, Georgia 30345–3301 (404/679–7313).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements. This rulemaking was not subject to review by the Office of Management and Budget under Executive Order 12866.

References Cited

Center for Plant Conservation. 1992. Report on the Rare Plants of Puerto Rico. Missouri Botanical Garden, St. Louis, Missouri.

Little, E.L. Jr, R.O. Woodbury, and F.H. Wadsworth. 1974. Trees of Puerto Rico and the Virgin Islands, Volume II. Agriculture Handbook No. 449. U.S. Department of Agriculture, Forest Service. Washington, D.C. 1024 pp.

Liogier, H.L. and L.F. Martorell. 1982. Flora of Puerto Rico and Adjacent Islands: a systematic synopsis. Editorial de la Universidad de Puerto Rico, Río Piedras, Puerto Rico. 342 pp.

Proctor, G. R. 1992. Status report on *Juglans jamaicensis* C. DC. Unpublished report submitted to the U.S. Fish and Wildlife Service. 7 pp.

Author: The primary author of this final rule is Ms. Susan Silander, Boquerón Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (787/851–7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as follows:

§17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Juglans jamaicensis	Nogal or West Indian walnut.	U.S.A. (PR), Cuba, Hispaniola.	Juglandaceae	E	603	NA	NA
*	*	*	*	*	*	*	

Dated: November 26, 1996.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 97–770 Filed 1–10–97; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 62, No. 8
Monday, January 13, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213 and 338

RIN 3206–AG21

Summer Employment

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is proposing to eliminate regulations that refer to ''summer employment'' as a separate program. The proposed change is part of OPM efforts to eliminate unnecessary appointing authorities. Agencies would use temporary limited appointments or student temporary appointments, as appropriate, to appoint individuals during the ''summer months.''

DATES: Comments must be received on or before February 12, 1997.

ADDRESSES: Send or deliver written comments to Mary Lou Lindholm, Associate Director for Employment, Office of Personnel Management, Room 6F08, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Karen Jacobs on (202) 606–0830, TDD (202) 606–0023, or FAX (202) 606–2329.

SUPPLEMENTARY INFORMATION: As recommended by the National Performance Review (NPR), OPM abolished the Federal Personnel Manual which contained detailed hiring guidance for the summer employment program. The NPR also recommended OPM reduce the number of Federal hiring authorities and decentralize many personnel decisions. As a result, OPM revised the regulations on temporary employment and streamlined the student employment programs to give more flexibility in the hiring process. Under the proposed elimination of the summer employment program, agencies would fill time-limited appointments that occur during the summer months by using either the temporary appointing authority in parts 316 and 333 or the student temporary appointment in parts 213 and 302, as appropriate. The proposal would remove the restrictions on the time period during which ''summer'' appointments can be made.

Individuals appointed, including those appointed during the summer months, under § 316.402 of this chapter may be reappointed under the conditions set forth in § 316.402(b)(3)—noncompetitive temporary limited appointments and § 316.401(d)—exceptions to the general time limits on making temporary appointments. However, students appointed under the student temporary employment program (5 CFR 213.3202) are not subject to the time limits in parts 316 or 213, or the reappointment procedures in part 316. Agencies may reappoint these students at any time, as appropriate.

Eliminating the separate summer program would remove the specific restrictions on the employment of sons and daughters. However, rules prohibiting nepotism in part 310 continue in full force.

Also, the proposal would require applicants to pass any written test required by the competitive service qualification standards. However, students hired under excepted appointments would not be required to pass a written examination.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations apply only to appointment procedures for certain employees in Federal agencies.

List of Subjects in 5 CFR Parts 213 and 338

Government employees, Reporting and recordkeeping requirements.

U.S. Office of Personnel Management.
James B. King,
Director.

Accordingly, OPM proposes to amend 5 CFR parts 213 and 338 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 is revised to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h), 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185; and 38 U.S.C. 4301 *et seq.*

§ 213.3101 [Amended]

2. In § 213.3101, paragraphs (b) [Reserved] through (f) are removed and the paragraph designation in paragraph (a) is removed.

PART 338—QUALIFICATION REQUIREMENTS (GENERAL)

3. The authority citation for part 338 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp., p. 218.

Subpart B—[Reserved]

4. In part 338, subpart B consisting of § 338.202, is removed and reserved.

[FR Doc. 97–699 Filed 1–10–97; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–101–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300 series airplanes. This proposal would require repetitive checks and testing of certain equipment that regulates the flow of fuel from wing tank 2A to the number 2 engine. This proposal also would require replacement of this equipment with equipment that has been designed to prevent incorrect installation; this replacement would be terminating action for the repetitive equipment checks and tests. This proposal is prompted by reports indicating that the incorrect installation of this equipment has caused the flight crew to shut off,

rather than open, certain valves that regulate the flow of fuel from between this tank and engine. The actions specified by the proposed AD are intended to detect and rectify incorrect installations, which could result in the flight crew inadvertently shutting off the flow of fuel to the engine, and consequent engine failure during flight.

DATES: Comments must be received by February 24, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–101–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–101–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–101–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l' Aviation Civile (DGAC), which is the airworthiness authority for France, has notified the FAA that an unsafe condition may exist on certain Airbus A300 series airplanes. The DGAC advises that it has received reports indicating that the number 2 engine on some airplanes had failed because fuel from wing tank 2A was not reaching this engine. Subsequent investigation detected the presence of a loose control knob for the isolation valve switch that controls the flow of fuel between this wing tank and engine, and it was determined that the knob had been incorrectly installed. Consequently, when the control knob was turned to the ''open'' position, it was, in fact, closed, thereby cutting off the fuel supply to the engine. This condition, if not corrected, could result in the flight crew inadvertently shutting off the supply of fuel to this engine, and consequent failure of this engine during flight.

Explanation of Relevant Service Information

Airbus has issued A300 All Operator Telex (AOT) 28–03, dated June 6, 1991, which describes procedures for conducting a physical check of the control knobs for the isolation valve and crossfeed valve control unit 5QB, which is located on fuel panel 52 VU in the cockpit; and procedures for testing this control unit to determine if the control knob settings are correct.

The DGAC classified this AOT as mandatory and issued airworthiness directive (C/N) 91–173–126(B) R1, dated February 19, 1992, in order to assure the continued airworthiness of these airplanes in France.

Airbus also has issued Service Bulletin A300–28–055, Revision 3, dated December 19, 1991, as amended by Service Bulletin Change Notice 3.A., dated March 16, 1992. This service bulletin describes procedures for replacing the isolation valve and crossfeed valve control unit 5QB with a modified control unit. This replacement is intended to make it impossible to incorrectly install this control unit.

Airbus also has issued Service Bulletin A300–28–0061, Revision 1, dated March 14, 1992, which describes procedures for replacing the control knobs on the isolation valve and crossfeed valve control unit 5QB with new knobs. The replacement knobs are designed so that they can only be installed the correct way.

Note: The Airbus service bulletins reference the following service bulletins, issued by L'équipment et La Construction Electrique (ECE), as additional sources of procedural service information for performing these actions:

ECE Service Bulletin Number	Date
28–191	July 26, 1982.
28–195	August 31, 1983.
28–196	August 31, 1983.
28–228	November 1, 1991.

The DGAC classified the Airbus service bulletins as optional; accomplishment of the procedures described in these service bulletins, however, would terminate the repetitive equipment checks and tests, required by French CN 91–173–126(B) R1.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive checks of the control knobs on isolation valve and crossfeed valve control unit 5QB; and repetitive tests of this control unit. As terminating action for these repetitive checks and tests, operators would be required to replace these knobs and this control unit with knobs and a control unit that have been modified. These modified items prevent the knobs and control unit from being

installed incorrectly. The actions would be required to be accomplished in accordance with the service documents described previously.

Differences Between the Proposed Rule and the French CN

Operators should note that, while the proposed AD would require the replacement of the control knobs on the isolation valve and crossfeed valve control unit with modified units, the French DGAC, as iterated in its CN 91–173–126(B) R1, has provided for this replacement only as an optional action. Both the FAA and the DGAC agree, however, that accomplishment of the replacement would terminate the requirements for repetitive checks and tests of this equipment.

In proposing to mandate these replacement actions, the FAA considers that, unless the equipment is replaced with the modified equipment, the possibility of incorrect installation will always exist whenever normal maintenance is performed. The FAA has determined that long-term continued operational safety will be better assured by modifications or design changes to remove the source of the problem, rather than by repetitive checks or tests. Long-term checks or tests may not provide the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive checks and tests, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The proposed replacement requirement is in consonance with these considerations.

Cost Impact

The FAA estimates that 13 Airbus Model A300 series airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish each proposed check and test cycle, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed requirement on U.S. operators is estimated to be $780, or $60 per airplane, per check/test cycle.

It would take approximately 1 work hour per airplane to accomplish the proposed replacement of the control knobs and control unit, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,043 per airplane. Based on these figures, the cost impact of the proposed replacement action on U.S. operators is estimated to be $14,339, or $1,103 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 96–NM–101–AD.

Applicability: Model A300 series airplanes, as listed in the Airbus service documents referenced in paragraphs (a), (b), and (c) of this AD; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the flight crew from inadvertently shutting off the flow of fuel from wing tank 2A to the number 2 engine, due to the incorrect installation of the isolation valve and crossfeed valve control unit 5QB, and the consequent failure of the engine, accomplish the following:

(a) *For airplanes listed in Airbus A300 All Operator Telex (AOT) 28–03, dated June 6, 1991:* Within 30 days after the effective date of this AD, perform a check and functional test of the control knob configurations for the isolation valve and crossfeed valve control unit 5QB, in accordance with Airbus AOT 28–03, dated June 6, 1991.

(1) Repeat the check and test thereafter at intervals not to exceed 500 hours time-in-service, and prior to further flight after any maintenance action is performed on the control unit.

(2) Any unit that does not successfully pass the check/functional test, must be repaired or otherwise rectified prior to further flight, in accordance with the AOT.

(b) *For airplanes listed in Airbus Service Bulletin A300–28–055, Revision 3, dated December 19, 1991, as amended by Service Bulletin Change Notice 3.A., dated March 16, 1992:* Within 2 years after the effective date of this AD, replace the crossfeed and isolation valve control unit 5QB with a modified unit, in accordance Airbus Service Bulletin A300–28–055, Revision 3, dated December 19, 1991, as amended by Service Bulletin Change Notice 3.A.

Note 2: Airbus Service Bulletin A300–28–055, Revision 3, references L'équipment et La Construction Electrique (ECE) Service Bulletins 28–195 and 28–196, both dated August 31, 1983, as additional sources of procedural information for replacement of the control unit.

(c) *For airplanes listed in Airbus Service Bulletin A300–28–0061, Revision 1, dated March 14, 1992:* Within 2 years after the effective date of this AD, replace the control knobs on the crossfeed and isolation valve control unit 5QB with new knobs, in accordance with Airbus Service Bulletin A300–28–0061, Revision 1, dated March 14, 1992.

Note 3: Airbus Service Bulletin A300–28–0061, Revision 1, references ECE Service Bulletins 28–191, dated July 26, 1982, and 28–228, dated November 1, 1991, as additional sources of procedural information for replacement of the control knobs.

(d) Accomplishment of both of the replacements specified in paragraphs (b) and

(c) of this AD constitutes terminating action for the repetitive checks and tests required by paragraph (a) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 6, 1997.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–682 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 96–ASO–40]

Proposed Amendment to Class D and E2 Airspace; Orlando, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class D and E2 surface area airspace at Orlando, FL. A GPS RWY 7 and a GPS RWY 25 Standard Instrument Approach Procedures (SIAP's) have been developed for the Orlando Executive Airport. Additional controlled airspace extending upward from the surface is needed to accommodate these SIAP's and for instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before February 16, 1997.

ADDRESSES: Send comments on the proposed in triplicate to: Federal Aviation Administration, Docket No. 96–ASO–40, Manager, Operations Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT:

Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written date, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–ASO–40.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Operations Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class D and E2 surface area airspace at Orlando, FL. to accommodate a GPS RWY 7 and a GPS RWY 25 SIAP's for the Orlando Executive Airport. Additional controlled airspace extending upward from the surface is needed to accommodate these SIAP's and for IFR operations at the airport. Class D airspace designations and Class E airspace designations for airspace areas designated as a surface area for an airport are published in Paragraphs 5000 and 6002, respectively, of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1 The Class D and E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation

Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ASO FL D Orlando, FL [Revised]

Orlando Executive Airport, FL
(lat. 28°32′44″ N, long. 81°19′58″ W)
Orlando VORTAC
(lat. 28°32′34″, N long. 81°20′06″ W)

That airspace extending upward from the surface to but not including 1,500 feet MSL within a 4.2-mile radius of Orlando Executive Airport and within 3.6 miles each side of Orlando VORTAC 254° radial extending from 4.2-mile radius to 8.1 miles west of the VORTAC; excluding that portion within the Orlando, FL, Class B airspace area. This Class D airspace area is effective during the days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

ASO FL E2 Orlando, FL [Revised]

Orlando Executive Airport, FL
(lat. 28°32′44″ N, long. 81°19′58″ W)
Orlando VORTAC
(lat. 28°32′34″, N long. 81°20′06″ W)

Within a 4.2-mile radius of Orlando Executive Airport and within 3.6 miles each side of Orlando VORTAC 254° radial extending from 4.2-mile radius to 8.1 miles west of the VORTAC; excluding that portion within the Orlando, FL, Class B airspace area. This Class E airspace area is effective during the days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on December 23, 1996.

Lacy E. Wright,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97–786 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASO–39]

Proposed Amendment to Class D and E2 Airspace; Gainesville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class D, E2 and E4 surface area airspace at Gainesville, FL. A GPS RWY 6 and a GPS RWY 24 Standard Instrument Approach Procedures (SIAPs) have been developed for the Gainesville Regional Airport. Additional controlled airspace extending upward from the surface is needed to accommodate these SIAP's and for instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before February 16, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 96–ASO–39, Manager, Operations Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined by the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, Operation Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate in the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–ASO–39.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Operations Branch, ASO–530, Air Traffic Division, P.O.Box 20636, Atlanta Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class D, E2 and E4 surface area airspace at Gainesville, FL. to accommodate a GPA RWY 6 and a GPS RWY 24 SIAP's for the Gainesville Regional Airport. Additional controlled airspace extending upward from the surface is needed to accommodate these SIAP's and for IFR operations at the airport. Class D airspace designations, Class E airspace designations for airspace areas designated as a surface area for an airport and Class E airspace areas designated as an extension to Class D surface area are published in Paragraphs 5000, 6002 and 6004, respectively, of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which are incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ASO FL D Gainesville, FL [Revised]

Gainesville Regional Airport, FL
(lat. 29°41′24″ N, long. 82°16′18″ W)
Gainesville VORTAC
(lat. 29°34′20″, N long 82°21′45″ W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 4.3-mile radius of Gainesville Regional Airport. This Class D airspace area is effective during the days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

ASO E2 FL Gainesville, FL [Revised]

Gainesville Regional Airport, FL
(lat. 29°41′24″ N, long. 82°16′18″ W)
Gainesville VORTAC
(lat. 29°34′20″, N long. 82°21′45″ W)

Within a 4.3-mile radius of Gainesville Regional Airport. This Class E airspace area is effective during the days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D surface area.

* * * * *

ASO FL E4 Gainesville, FL [Revised]

Gainesville Regional Airport, FL
(lat. 29°41′24″ N, long. 82°16′18″ W)
Gainesville VORTAC
(lat. 29°34′20″, N long. 82°21′45″ W)

That airspace extending upward from the surface within 1.5 miles each side of the Gainesville VORTAC 034° radial, extending from the 4.3-mile radius of Gainesville Regional Airport to 2.5 miles northeast of the VORTAC. This Class E airspace area is effective during the days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on December 23, 1996.

Lacy E. Wright,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 97–785 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–208288–90]

RIN 1545–AP36

Filing Requirements for Returns Claiming the Foreign Tax Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation relating to the substantiation requirements for taxpayers claiming foreign tax credits. The proposed regulation is necessary to provide guidance to U.S. taxpayers who claim foreign tax credits.

DATES: Written comments and requests for a public hearing must be received by April 14, 1997.

ADDRESSES: Send Submissions to: CC:DOM:CORP:R (REG–208288–90), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–208288–90), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS internet site at HTTP://www.irs.ustreas.gov/prod/tax__regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Joan Thomsen, (202) 622–3840 (not a toll-free call); concerning submissions, Evangelista Lee, (202) 622–7190 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On June 3, 1988, the Internal Revenue Service issued a Notice (Notice 88–65, 1988–1 C.B. 552) which stated that regulations would be issued suspending portions of §1.905–2 of the Treasury Regulations. Section 1.905–2 requires taxpayers who claim foreign tax credits to attach documents to their returns substantiating the credits. The Notice was issued in response to problems taxpayers were experiencing because they could not timely obtain and prepare the necessary documentation in a form suitable for submission with their tax returns. The intent of the Notice was to advise taxpayers that Treasury and the IRS would issue a new regulation that would suspend, beginning on January 1, 1988, the existing regulation requiring the submission of this documentation with a tax return. This new regulation has not been issued. Instead of suspending the relevant portions of the existing regulation, Treasury and the IRS now have decided to permanently eliminate the requirement that documentation be submitted with the tax return, effective January 1, 1988.

Explanation of Provisions

§ 1.905–2(a)(1), 1.905–2(b) (1) and (2), and 1.905–2(c)

Sections 1.905–2(a)(1), 1.905–2(b) (1) and (2), and 1.905–2(c) are unchanged from the final regulations.

§ 1.905–2(a)(2)

Under § 1.905–2(a)(2), taxpayers generally are required to attach to their income tax returns either (1) the receipt for the foreign tax payment, or (2) a foreign tax return for accrued foreign taxes. Proposed § 1.905–2(a)(2) removes the requirement that the documentation must be attached to the income tax return.

The proposed regulation now provides that such evidence of foreign taxes must be presented to the district director upon request.

§ 1.905–2(b)(3)

Section 1.905–2(b)(3) addresses issues for taxes withheld at the source. The section allows the district director to accept secondary evidence of such withholding. The proposed regulation clarifies that evidence of a tax withheld at the source and the amount withheld is only sufficient for an interim credit.

Upon request of the district director, taxpayers must provide evidence, as provided in § 1.905–2(a)(2), that the tax withheld was actually paid to the foreign country. Although this regulation will be effective on the date that is 30 days after the date the final regulation is published in the Federal Register, it reflects an IRS requirement upheld as a reasonable interpretation of current law by the Tax Court and the Court of Appeals for the Seventh Circuit in *Continental Illinois Corp*. v. *Commissioner,* T.C. Memo. 1991–66, 61 T.C.M. (CCH) 1916, 1939–42 (1991), *aff'd in part and rev'd in part,* 998 F.2d 513, 516–17 (7th Cir. 1993).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to this regulation, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before this proposed regulation is adopted as a final regulation, consideration will be given to any comments that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

Drafting Information

The principal author of this regulation is Joan Thomsen of the Office of the Associate Chief Counsel (International), IRS.

However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for 26 CFR part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.905–2 is amended by:

1. Revising the second through fourth sentences in paragraph (a)(2).

2. Adding two sentences to the end of paragraph (b)(3).

The revision and addition read as follows:

§ 1.905–2 Conditions of allowance of credit.

(a) * * *

(2) * * * Except where it is established to the satisfaction of the district director that it is impossible for the taxpayer to furnish such evidence, the taxpayer must provide upon request the receipt for each such tax payment if credit is sought for taxes already paid or withheld, or the return on which each such accrued tax was based if credit is sought for taxes accrued. This receipt or return must be either the original, a duplicate original, or a duly certified or authenticated copy. The preceding two sentences are effective for returns whose original due date falls on or after January 1, 1988. * * *

(b) * * *

(3) * * * Any foreign tax credit claimed for taxes withheld at the source is an interim credit and the taxpayer must prove that any taxes withheld at the source were paid to the foreign country, as required in paragraph (a) of this section. The preceding sentence is effective the date that is 30 days after the date this regulation is published in the Federal Register as a final regulation, however, for periods prior to the date that is 30 days after the date this regulation is published in the Federal Register as a final regulation, see *Continental Illinois Corp*. v. *Commissioner,* T.C. Memo. 1991–66, 61 T.C.M. (CCH) 1916, 1939–42 (1991), *aff'd in part and rev'd in part,* 998 F.2d 513, 516–17 (7th Cir. 1993), wherein the court upheld this rule as a reasonable interpretation of section 905(b) of the Internal Revenue Code.

* * * * *

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 97–527 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 1

[REG–209729–94]

RIN 1545–AS94

Self-Employment Tax Treatment of Members of Certain Limited Liability Companies

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking relating to the self-employment tax treatment of members of certain limited liability companies that was published in the Federal Register on Thursday, December 29, 1994. The proposed regulations sought to provide guidance concerning the applicability of certain self-employment tax rules to certain members of limited liability companies. The IRS and Treasury have issued new proposed regulations that will provide guidance on this issue.

FOR FURTHER INFORMATION CONTACT: Robert Honigman, (202) 622–3050

(not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On Thursday, December 29, 1994, the IRS issued proposed regulations (EE–45–94) relating to the self-employment tax treatment of members of certain limited liability companies (59 FR 67253). Upon consideration of the written comments received and the oral comments made at the public hearing held on June 23,1995, the IRS has decided to withdraw those proposed regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking that was published in the Federal Register on Thursday, December 29, 1994, at 59 FR 67253, is withdrawn.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 97–700 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 1

[REG–209824–96]

RIN 1545–AU24

Definition of Limited Partner for Self-Employment Tax Purposes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed amendments to the regulations relating to the self-employment income tax imposed under section 1402 of the Internal Revenue Code of 1986. These regulations permit individuals to determine whether they are limited partners for purposes of section 1402(a)(13), eliminating the uncertainty in calculating an individual's net earnings from self-employment under existing law. This document also contains a notice of public hearing on the proposed regulations.

DATES: Written comments must be received by April 14, 1997. Requests to speak and outlines of oral comments to be discussed at the public hearing scheduled for May 21, 1997, at 10 a.m. must be received by April 30, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–209824–96), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–209824–96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax__regs/comments.html. The public hearing will be held in the Auditorium, Internal Revenue Service building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulation, Robert Honigman, (202) 622–3050; concerning submissions and the hearing, Christina Vasquez, (202) 622–6808 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 1402 of the Internal Revenue Code and replaces the notice of proposed rulemaking published in the Federal Register on December 29, 1994, at 59 FR 67253, that treated certain members of a limited liability company (LLC) as limited partners for self-employment tax purposes. Written comments responding to the proposed regulations were received, and a public hearing was held on June 23, 1995.

Under the 1994 proposed regulations, an individual owning an interest in an LLC was treated as a limited partner if (1) the individual lacked the authority to make management decisions necessary to conduct the LLC's business (the management test), and (2) the LLC could have been formed as a limited partnership rather than an LLC in the same jurisdiction, and the member could have qualified as a limited partner in the limited partnership under applicable law (the limited partner equivalence test). The intent of the 1994 proposed regulations was to treat owners of an LLC interest in the same manner as similarly situated partners in a state law partnership.

Public comments on the 1994 proposed regulations were mixed. While some commentators were pleased with the proposed regulations for attempting to conform the treatment of LLCs with state law partnerships, others criticized the 1994 proposed regulations based on a variety of arguments.

A number of commentators discussed administrative and compliance problems with the 1994 proposed regulations. For example, it was noted that both the management test and the limited partner equivalence test depend upon legal or factual determinations that may be difficult for taxpayers or the IRS to make with certainty.

Another commentator pointed out that basing the self-employment tax treatment of LLC members on state law limited partnership rules would lead to disparate treatment between members of different LLCs with identical rights based solely on differences in the limited partnership statutes of the states in which the members form their LLC. For example, State A's limited partnership act may allow a limited partner to participate in a partnership's business while State B's limited partnership act may not. Thus, an LLC member, who is not a manager, that participates in the LLC's business would be a limited partner under the proposed regulations if the LLC is formed in State A, but not if the LLC is formed in State B. Commentators asserted that this disparate treatment is inherently unfair for federal tax purposes.

Some commentators argued for a ''material participation'' test to determine whether an LLC member's distributive share is included in the individual's net earnings from self-employment. The proposed regulations did not contain a participation test. Commentators advocating a participation test stressed that such a test would eliminate uncertainty concerning many LLC members' limited partner status and would better implement the self-employment tax goal of taxing compensation for services.

Other commentators argued for a more uniform approach, stating that a single test should govern all business entities i.e., partnerships, LLCs, LLPs, sole proprietorships, et al.) whose members may be subject to self-employment tax. These commentators generally recognized, however, that a change in the treatment of a sole proprietorship or an entity that is not characterized as a partnership for federal tax purposes would be beyond the scope of regulations to be issued under section 1402(a)(13).

Finally, some commentators focused on whether the Service would respect the ownership of more than one class of partnership interest for self-employment tax purposes (bifurcation of interests). The proposed regulations treated an LLC member as a limited partner with respect to his or her entire interest (if the member was not a manager and satisfied the limited partner equivalence test), or not at all (if either the management test or limited partner equivalence test was not satisfied). Commentators, however, pointed to the legislative history of section 1402(a)(13) to support their argument that Congress only intended to tax a partner's distributive share attributable to a general partner interest. Under this argument, a partner that holds both a general partner interest and a limited partner interest is only subject to self-employment tax on the distributive share attributable to the partner's general partner interest. This intent also may be inferred from the statutory language of section 1402(a)(13) that the self-employment tax does not apply to ''* * * the distributive share of any item of income or loss of a limited partner, as such * * *.'' Based on this evidence, these commentators requested that the proposed regulations be revised to allow the bifurcation of interests for self-employment tax purposes.

After considering the comments received, the IRS and Treasury have decided to withdraw the 1994 notice of proposed rulemaking and to re-propose amendments to the Income Tax

Regulations (26 CFR part 1) under section 1402 of the Code.

Explanation of Provisions

The proposed regulations contained in this document define which partners of a federal tax partnership are considered limited partners for section 1402(a)(13) purposes. These proposed regulations apply to all entities classified as a partnership for federal tax purposes, regardless of the state law characterization of the entity. Thus, the same standards apply when determining the status of an individual owning an interest in a state law limited partnership or the status of an individual owning an interest in an LLC. In order to achieve this conformity, the proposed regulations adopt an approach which depends on the relationship between the partner, the partnership, and the partnership's business. State law characterizations of an individual as a ''limited partner'' or otherwise are not determinative.

Generally, an individual will be treated as a limited partner under the proposed regulations unless the individual (1) has personal liability (as defined in § 301.7701–3(b)(2)(ii) of the Procedure and Administration Regulations) for the debts of or claims against the partnership by reason of being a partner; (2) has authority to contract on behalf of the partnership under the statute or law pursuant to which the partnership is organized; or, (3) participates in the partnership's trade or business for more than 500 hours during the taxable year. If, however, substantially all of the activities of a partnership involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, or consulting, any individual who provides services as part of that trade or business will not be considered a limited partner.

By adopting these functional tests, the proposed regulations ensure that similarly situated individuals owning interests in entities formed under different statutes or in different jurisdictions will be treated similarly. The need for a functional approach results not only from the proliferation of new business entities such as LLCs, but also from the evolution of state limited partnership statutes. When Congress enacted the limited partner exclusion found in section 1402(a)(13), state laws generally did not allow limited partners to participate in the partnership's trade or business to the extent that state laws allow limited partners to participate today. Thus, even in the case of a state law limited partnership, a functional approach is necessary to ensure that the self-employment tax consequences to similarly situated taxpayers do not differ depending upon where the partnership organized.

The proposed regulations allow an individual who is not a limited partner for section 1402(a)(13) purposes to nonetheless exclude from net earnings from self-employment a portion of that individual's distributive share if the individual holds more than one class of interest in the partnership. Similarly, the proposed regulations permit an individual that participates in the trade or business of the partnership to bifurcate his or her distributive share by disregarding guaranteed payments for services. In each case, however, such bifurcation of interests is permitted only to the extent the individual's distributive share is identical to the distributive share of partners who qualify as limited partners under the proposed regulation (without regard to the bifurcation rules) and who own a substantial interest in the partnership. Together, these rules exclude from an individual's net earnings from self-employment amounts that are demonstrably returns on capital invested in the partnership.

Proposed Effective Date

These regulations are proposed to be effective beginning with the individual's first taxable year beginning on or after the date these regulations are published as final regulations in the Federal Register.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Wednesday, May 21, 1997, at 10 a.m. in the Auditorium, Internal Revenue Service building, 1111 Constitution Avenue, NW, Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Service building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments by April 14, 1997 and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by April 30, 1997.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Robert Honigman of the Office of Assistant Chief Counsel (Passthroughs & Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.1402(a)–2 is amended by:

1. Revising the first sentence of paragraph (d).

2. Removing the reference ''section 702(a)(9)'' in the first sentence of paragraph (e) and adding ''section 702(a)(8)'' in its place.

3. Revising the last sentence of paragraph (f).

4. Revising paragraphs (g) and (h).

5. Adding new paragraphs (i) and (j).

The revisions and additions read as follows:

§ 1.1402(a)–2 Computation of net earnings from self-employment.

* * * * *

(d) * * * Except as otherwise provided in section 1402(a) and paragraph (g) of this section, an individual's net earnings from self-employment include the individual's distributive share (whether or not distributed) of income or loss described in section 702(a)(8) from any trade or business carried on by each partnership of which the individual is a partner. * * *

* * * * *

(f) * * * For rules governing the classification of an organization as a partnership or otherwise, see §§ 301.7701–1, 301.7701–2, and 301.7701–3 of this chapter.

(g) *Distributive share of limited partner.* An individual's net earnings from self-employment do not include the individual's distributive share of income or loss as a limited partner described in paragraph (h) of this section. However, guaranteed payments described in section 707(c) made to the individual for services actually rendered to or on behalf of the partnership engaged in a trade or business are included in the individual's net earnings from self-employment.

(h) *Definition of limited partner*—(1) *In general.* Solely for purposes of section 1402(a)(13) and paragraph (g) of this section, an individual is considered to be a limited partner to the extent provided in paragraphs (h)(2), (h)(3), (h)(4), and (h)(5) of this section.

(2) *Limited partner.* An individual is treated as a limited partner under this paragraph (h)(2) unless the individual—

(i) Has personal liability (as defined in § 301.7701–3(b)(2)(ii) of this chapter) for the debts of or claims against the partnership by reason of being a partner;

(ii) Has authority (under the law of the jurisdiction in which the partnership is formed) to contract on behalf of the partnership; or

(iii) Participates in the partnership's trade or business for more than 500 hours during the partnership's taxable year.

(3) *Exception for holders of more than one class of interest.* An individual holding more than one class of interest in the partnership who is not treated as a limited partner under paragraph (h)(2) of this section is treated as a limited partner under this paragraph (h)(3) with respect to a specific class of partnership interest held by such individual if, immediately after the individual acquires that class of interest—

(i) Limited partners within the meaning of paragraph (h)(2) of this section own a substantial, continuing interest in that specific class of partnership interest; and,

(ii) The individual's rights and obligations with respect to that specific class of interest are identical to the rights and obligations of that specific class of partnership interest held by the limited partners described in paragraph (h)(3)(i) of this section.

(4) *Exception for holders of only one class of interest.* An individual who is not treated as a limited partner under paragraph (h)(2) of this section solely because that individual participates in the partnership's trade or business for more than 500 hours during the partnership's taxable year is treated as a limited partner under this paragraph (h)(4) with respect to the individual's partnership interest if, immediately after the individual acquires that interest—

(i) Limited partners within the meaning of paragraph (h)(2) of this section own a substantial, continuing interest in that specific class of partnership interest; and

(ii) The individual's rights and obligations with respect to the specific class of interest are identical to the rights and obligations of the specific class of partnership interest held by the limited partners described in paragraph (h)(4)(i) of this section.

(5) *Exception for service partners in service partnerships.* An individual who is a service partner in a service partnership may not be a limited partner under paragraphs (h)(2), (h)(3), or (h)(4) of this section.

(6) *Additional definitions.* Solely for purposes of this paragraph (h)—

(i) A *class of interest* is an interest that grants the holder specific rights and obligations. If a holder's rights and obligations from an interest are different from another holder's rights and obligations, each holder's interest belongs to a separate class of interest. An individual may hold more than one class of interest in the same partnership provided that each class grants the individual different rights or obligations. The existence of a guaranteed payment described in section 707(c) made to an individual for services rendered to or on behalf of a partnership, however, is not a factor in determining the rights and obligations of a class of interest.

(ii) *A service partner* is a partner who provides services to or on behalf of the service partnership's trade or business. A partner is not considered to be a service partner if that partner only provides a de minimis amount of services to or on behalf of the partnership.

(iii) A *service partnership* is a partnership substantially all the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, or consulting.

(iv) A *substantial interest in a class of interest* is determined based on all of the relevant facts and circumstances.

In all cases, however, ownership of 20 percent or more of a specific class of interest is considered substantial.

(i) *Example.* The following example illustrates the principles of paragraphs (g) and (h) of this section:

Example. (i) A, B, and C form LLC, a limited liability company, under the laws of State to engage in a business that is not a service partnership described in paragraph (h)(6)(iii) of this section. LLC, classified as a partnership for federal tax purposes, allocates all items of income, deduction, and credit of LLC to A, B, and C in proportion to their ownership of LLC. A and C each contribute $1x for one LLC unit. B contributes $2x for two LLC units. Each LLC unit entitles its holder to receive 25 percent of LLC's tax items, including profits. A does not perform services for LLC; however, each year B receives a guaranteed payment of $6x for 600 hours of services rendered to LLC and C receives a guaranteed payment of $10x for 1,000 hours of services rendered to LLC. C also is elected LLC's manager. Under State's law, C has the authority to contract on behalf of LLC.

(ii) *Application of general rule of paragraph (h)(2) of this section.* A is treated as a limited partner in LLC under paragraph (h)(2) of this section because A is not liable personally for debts of or claims against LLC, A does not have authority to contract for LLC under State's law, and A does not participate in LLC's trade or business for more than 500 hours during the taxable year. Therefore, A's distributive share attributable to A's LLC unit is excluded from A's net earnings from self-employment under section 1402(a)(13).

(iii) *Distributive share not included in net earnings from self-employment under paragraph (h)(4) of this section.* B's guaranteed payment of $6x is included in B's net earnings from self-employment under section 1402(a)(13). B is not treated as a limited partner under paragraph (h)(2) of this section because, although B is not liable for debts of or claims against LLC and B does not have authority to contract for LLC under State's law, B does participates in LLC's trade or business for more than 500 hours during the taxable year. Further, B is not treated as a limited partner under paragraph (h)(3) of this section because B does not hold more than one class of interest in LLC. However, B is treated as a limited partner under paragraph (h)(4) of this section because B is not treated as a limited partner under paragraph (h)(2) of this section solely because B 1705participated in LLC's business for more

than 500 hours and because A is a limited partner under paragraph (h)(2) of this section who owns a substantial interest with rights and obligations that are identical to B's rights and obligations. In this example, B's distributive share is deemed to be a return on B's investment in LLC and not remuneration for B's service to LLC. Thus, B's distributive share attributable to B's two LLC units is not net earnings from self-employment under section 1402(a)(13).

(iv) *Distributive share included in net earnings from self-employment.* C's guaranteed payment of $10x is included in C's net earnings from self-employment under section 1402(a). In addition, C's distributive share attributable to C's LLC unit also is net earnings from self-employment under section 1402(a) because C is not a limited partner under paragraphs (h)(2), (h)(3), or (h)(4) of this section. C is not treated as a limited partner under paragraph (h)(2) of this section because C has the authority under State's law to enter into a binding contract on behalf of LLC and because C participates in LLC's trade or business for more than 500 hours during the taxable year. Further, C is not treated as a limited partner under paragraph (h)(3) of this section because C does not hold more than one class of interest in LLC. Finally, C is not treated as a limited partner under paragraph (h)(4) of this section because C has the power to bind LLC. Thus, C's guaranteed payment and distributive share both are included in C's net earnings from self-employment under section 1402(a).

(j) *Effective date.* Paragraphs (d), (e), (f), (g), (h), and (i) are applicable beginning with the individual's first taxable year beginning on or after the date this section is published as a final regulation in the Federal Register.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 97–701 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3100

[WO–310–3110–02 1A]

Royalty Rate Reduction for Stripper Oil Properties

AGENCY: Bureau of Land Management, Interior.

ACTION: Review of regulations; reopening of comment period.

SUMMARY: On November 4, 1996, the Bureau of Land Management (BLM) published a document in the Federal Register announcing a review of the royalty rate reducing reduction available to producers of Federal stripper well properties (61 FR 56651). The document requested comments from the public on the effectiveness of this program during a 60-day period that ended on January 3, 1997. BLM has received numerous requests from the public for additional time to research this issue and is reopening the comment period for an additional 60 days.

DATES: Comments must be submitted on or before March 14, 1997.

ADDRESSES: If you wish to comment you may: (a) Hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L St., NW., Washington, DC; (b) Mail comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW, Washington, DC 20240; or (c) Transmit comments electronically via the Internet to WOComment@wo.blm.gov. Please include Attn: ''Stripper Wells'' and your name and address in your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452–5030.

You will be able to review comments at BLM's Regulatory Affairs office, Room 401, 1620 L St., NW., Washington, D.C., during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Wayne Melton, Roswell (NM) District Office, (505) 627–0254.

Dated: January 8, 1997.

Frank Bruno,

Regulatory Affairs Group.

[FR Doc. 97–738 Filed 1–10–97; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 630 and 678

[I.D. 010297A]

Atlantic Swordfish Fishery; Atlantic Shark Fishery; Public Hearings on Draft Amendment 1 to the Fishery Management Plan for Sharks of the Atlantic Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearings; request for comments.

SUMMARY: The Highly Migratory Species Management Division (HMS Division) will convene 11 public hearings on Draft Amendment 1 to the Fishery Management Plan for Sharks of the Atlantic Ocean (Shark FMP) and a proposed limited access system for the Atlantic swordfish fishery. Draft Amendment 1 will address a limited access system for the Atlantic shark fishery. Draft Amendment 1 to Fishery Management Plan for Atlantic Swordfish (Swordfish FMP), which will address a limited access system for that fishery, will be published in early January.

DATES: Written comments on Draft Amendment 1 to the Shark FMP will be accepted until February 28, 1997. Public hearings will be held in January and February. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the hearings.

ADDRESSES: Written comments should be sent to William T. Hogarth, Acting Chief, HMS Division, Office of Sustainable Fisheries F/SF1, 1315 East-West Highway, Silver Spring, MD 20910 (FAX: 301–713–1917). Clearly mark the outside of the envelope ''Limited Access Comments.'' Copies of the proposed rule and draft amendment 1 to the Shark FMP, which includes an environmental assessment and regulatory impact review, are available from Margo Schulze at the same address. Public hearings will be held in Maine, Massachusetts, Rhode Island, New York, New Jersey, North Carolina, Florida, and Louisiana. See **SUPPLEMENTARY INFORMATION** for locations of the hearings.

FOR FURTHER INFORMATION CONTACT: Margo Schulze, Fishery Biologist, or James Chambers, Fishery Management Specialist, HMS Division, 301–713–2347.

SUPPLEMENTARY INFORMATION: Issues that will be addressed in Draft Amendment 1 to the Shark FMP include: Proposed implementation of a two-tiered permit system consisting of directed and incidental permits for the commercial fishery, eligibility criteria for these permits based on historical participation, transferability provisions, the permitting process, upgrading restrictions, ownerships limits, and an incidental permit catch limit. Draft Amendment 1 to the Swordfish FMP will be published in early January and will address similar issues to those in Draft Amendment 1 to the Shark FMP.

A complete description of the measures, including the purpose and need for the proposed action, is contained in the proposed rule published December 27, 1996 (61 FR 68202), and is not repeated here. Copies of the proposed rule and Draft

Amendment 1 to the Shark FMP may be obtained by writing (see **ADDRESSES**) or calling one of the contact persons (see **FOR FURTHER INFORMATION CONTACT**).

To accommodate people unable to attend a hearing or wishing to provide additional comments, NMFS also solicits written comments on the proposed rule.

The public hearings are scheduled as follows:

1. Thursday, January 30, 1997—North Carolina Aquarium (Auditorium), Airport Road, Manteo, NC 27954, (919) 473–3494, 7:00 p.m.–10:00 p.m.

2. Monday, February 3, 1997—Barnegat Light Firehouse, 10th and Boulevard Streets, Long Beach Island, Barnegat Light, NJ 08006, (609) 494–1280, 7:00 p.m.–10:00 p.m.

3. Wednesday, February 5, 1997—Holiday Inn (Highland Room), 81 Riverside Street (exit 8 off Maine Turnpike), Portland, ME 04103, (207) 774–5601, 7:00 p.m.–10:00 p.m.

4. Thursday, February 6, 1997—City Hall (Commission Chambers, 1st floor), 100 North Andrews Avenue, Ft. Lauderdale, FL 33301, (954) 761–5002, 3:00 p.m.–6:00 p.m.

5. Thursday, February 6, 1997—Holiday Inn at the Crossings (Ballroom), (near T.F. Green Airport), 801 Greenwich Avenue (exit 12A off I–95), Warwick, RI 02886, (401) 732–6000, 7:00 p.m.- 10:00 p.m.

6. Friday, February 7, 1997—Monroe County Public Library (Auditorium), 700 Fleming Street, Key West, FL 33040, (305) 292–3595, 3:00 p.m.–6:00 p.m.

7. Friday, February 7, 1997—Fire Hall, 12 Flamingo Avenue, Montauk, NY 11954, (516) 668–5695, 7:00 p.m.–10:00 p.m.

8. Thursday, February 13, 1997—Madeira Beach City Hall (Auditorium), 300 Municipal Drive, Madeira Beach, FL 33708, (813) 391–9951, 7:00 p.m.–10:00 p.m.

9. Friday, February 14, 1997—City Hall (Commission Meeting Rm, 2nd floor), 9 Harrison Avenue (Route 231), Panama City, FL 32401, (904) 872–3010, 2:00 p.m.–5:00 p.m.

10. Saturday, February 15, 1997—Quality Inn Midtown (Napoleon Room), 3900 Tulane Avenue, New Orleans, LA 70119, (504) 486–5541, 3:00 p.m.–6:00 p.m.

11. Wednesday, February 19, 1997—NOAA, First Floor Conference Room (1W611), Silver Spring Metro Center Building 4, 1305 East-West Highway, Silver Spring, MD 20910, (301) 713–2227, 10:00 a.m.–12:00 p.m.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Margo Schulze (see **ADDRESSES**) at least 15 days before the hearing date.

Dated: January 7, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–698 Filed 1–7–97; 4:59 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 8
Monday, January 13, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Capital Construction Fund—Deposit/Withdrawal Report.

Agency Form Number: NOAA 34–82.

OMB Number: 0648–0041.

Type of Review: Renewal of an existing collection.

Burden: 1,650 hours.

Number of Respondents: 4,000 respondents (5,000 responses).

Avg. Hours Per Response: 20 minutes.

Needs and Uses: Created by the Merchant Marine Act, the Capital Construction Fund program enables fishermen to construct, reconstruct, or under limited circumstances to acquire fishing vessels with before-tax, rather than after-tax dollars. Fishermen holding Capital Construction Fund Agreements are required to submit annual information on their deposits and withdrawals from their accounts. The information is used to check compliance with NOAA and IRS requirements.

Affected Public: Businesses or other for-profit organizations—commercial fishermen, partnerships and corporations with agreements.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Adele Morris, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Adele Morris, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: January 7, 1997.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–685 Filed 1–10–97; 8:45 am]

BILLING CODE 3510–22–P

Bureau of Export Administration

Notification of Delivery Verification Requirement

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 14, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Department of Commerce, 14th & Constitution Ave., NW, room 6877, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

In order to increase the effectiveness of export controls on international trade in strategic commodities, certain countries participate in the Import Certificate/Delivery Verification (IV/DV) procedure. Its purpose is to make sure that strategic items are not diverted. The clearance request is for the form used to notify U.S. exporters that they must obtain from their foreign consignee an ''Import Certificate.'' This certificate, which is issued by the foreign government, certifies that the commodities exported were actually delivered to the foreign consignee. When the certification has been received, the U.S. exporter must complete the BXA form and return it along with the Import Certificate to BXA.

II. Method of Collection

Submission of completed form and Import Certificate.

III. Data

OMB Number: 0694–0008.

Form Number: ITA 648–P.

Type of Review: Regular submission.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 2.

Estimated Time Per Response: 30 minutes per response.

Estimated Total Annual Burden Hours: 1.

Estimated Total Annual Cost: $25 annually.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: January 7, 1997.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–683 Filed 1–10–97; 8:45 am]

BILLING CODE 3510–DEBT–P

Reports of Sample Shipments of Chemical Weapon Precursors

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 14, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Department of Commerce, 14th and Constitution Ave., NW, room 6877, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information will be used to monitor sample shipments of chemical weapon precursors in order to facilitate and enforce provisions of the Export Administration Regulations that permit limited exports of sample shipments without a validated export license. The reports will be reviewed by the Bureau of Export Administration to monitor quantities and patterns of shipments that might indicate circumvention of the regulation by entities seeking to acquire chemicals for chemical weapons purposes.

II. Method of Collection

Quarterly written report.

III. Data

OMB Number: 0694–0086.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 75.

Estimated Time Per Response: 30 minutes per response.

Estimated Total Annual Burden Hours: 225.

Estimated Total Annual Cost: $3,825—no cost to the public other than providing the report.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: January 7, 1997.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

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BILLING CODE 3510–DEBT–P

International Trade Administration

[A–570–844]

Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger, Katherine Johnson, or Everett Kelly, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4136, (202) 482–4929, or (202) 482–4194, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act (''URAA'').

Final Determination

We determine that melamine institutional dinnerware products (''MIDPs'') from the People's Republic of China (''PRC'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act.

Case History

Since the preliminary determination in this investigation (*Preliminary Determination and Postponement of Final Determination: Melamine Institutional Dinnerware Products from the PRC* (61 FR 43337, August 22, 1996)), the following events have occurred:

On August 22, 1996, Chen Hao Xiamen alleged that the Department made a ministerial error in its preliminary determination. The Department found that there was an error made in the preliminary determination; however, this error did not result in a change of at least five absolute percentage points in, but no less than 25 percent of, the weighted-average dumping margin calculated in the preliminary determination. Accordingly, no revision to the preliminary determination was made. (*See* Memorandum from the MIDP/PRC Team to Louis Apple dated September 16, 1996.)

In September through November 1996, we verified the questionnaire responses of the following participating respondents and, where applicable, their affiliates: Chen Hao (Xiamen) Plastic Industrial Co. Ltd. (''Chen Hao Xiamen''), Dongguan Wan Chao Melamine Products Co., Ltd., (''Dongguan''), Gin Harvest Melamine (Heyuan) Enterprises Co. Ltd. (''Gin Harvest''), Sam Choan Plastic Co. Ltd. (''Sam Choan''), and Tar-Hong Melamine Xiamen Co. Ltd. (''Tar Hong'').

Additional published information (PI) on surrogate values was submitted by petitioner and respondents on November 21, 1996. On November 22, 1996, the Department requested that Chen Hao Xiamen, Dongguan, Sam Choan, and Tar Hong submit new computer tapes to include data corrections identified through verification. This information was submitted on December 3 through 6, 1996.

Petitioner, the American Melamine Institutional Tableware Association (''AMITA''), and the respondents submitted case briefs on November 26, 1996, and rebuttal briefs on December 4, 1996. The Department held a public hearing for this investigation on December 6, 1996.

Scope of the Investigation

This investigation covers all items of dinnerware (*e.g.,* plates, cups, saucers, bowls, creamers, gravy boats, serving dishes, platters, and trays) that contain at least 50 percent melamine by weight and have a minimum wall thickness of 0.08 inch. This merchandise is classifiable under subheadings 3924.10.20, 3924.10.30, and 3924.10.50 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Excluded from the scope of investigation are flatware products (*e.g.,* knives, forks, and spoons).

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) for all participating companies is January 1, 1995, through December 31, 1995.

Separate Rates

Of the five responding exporters in this investigation, three—Gin Harvest, Tar Hong Xiamen, and Chen Hao Xiamen (1) are wholly foreign-owned and (2) make all sales to the United States of merchandise produced by their company through Taiwan parent companies. Thus, we consider the Taiwan-based parent to be the respondent exporter in the proceeding. No separate rates analysis is required for these exporters. (*See, e.g., Final Determination of Sales at Less Than Fair Value: Disposable Pocket Lighters from the People's Republic of China* (60 FR 22359, 22361, May 5, 1995)).

Sam Choan is wholly foreign owned but its sales to the United States are made from its facilities in the PRC. For this respondent, a separate rates analysis is necessary to determine whether it is independent from PRC government control over its export activities.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) and amplified in *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994) (*Silicon Carbide*). Under the separate rates criteria, the Department assigns separate rates in nonmarket economy cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

Respondents have submitted for the record the 1994 Foreign Trade Law of the PRC, enacted by the State Council of the central government of the PRC, which demonstrates absence of *de jure* control over the import and export of goods from the PRC by ''foreign trade operators.'' The term ''foreign trade operators'' refers to legal persons and other organizations engaged in foreign trade activities in accordance with the provisions of the 1994 law. The companies also reported that MIDPs are not included on any list of products that may be subject to central government export constraints.

In prior cases, the Department has analyzed the provisions of the law that the respondents have submitted in this case and found that they establish an absence of *de jure* control (*see Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China* (61 FR 19026, April 30, 1996) (*Bicycles*)). We have no new information in this proceeding which would cause us to reconsider this determination.

However, as in previous cases, there is some evidence that the PRC central government enactments have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. (*See Silicon Carbide* and Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China (60 FR 22544, May 8, 1995) (*Furfuryl Alcohol*)). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (*see Silicon Carbide* and *Furfuryl Alcohol*).

Each company asserted, and we verified, the following: (1) it establishes its own export prices; (2) it negotiates contracts, without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs and has the authority to sell its assets and to obtain loans. In addition, questionnaire responses on the record indicate that pricing was company-specific during the POI, which does not suggest coordination among or common control of exporters. During verification proceedings, Department officials viewed such evidence as sales documents, company correspondence, and bank statements. This information supports a finding that there is a *de facto* absence of governmental control of export functions. Consequently, we have determined that Dongguan and Sam Choan have met the criteria for the application of separate rates.

PRC-Wide Rate

Because some companies did not respond to the questionnaire, we are applying a single antidumping deposit rate—the PRC-wide rate—to all exporters in the PRC (except the five participating exporters) based on our presumption that those companies are under common control by the PRC government. *See, e.g., Bicycles.*

Facts Available

Pursuant to sections 776 (a) and (b) of the Act, we have based the PRC-wide rate on facts available, using adverse inferences, because the non-responding companies have failed to cooperate to the best of their ability. Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) withholds information that has been requested by the administering authority, (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i)—the administering authority * * * shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its

ability to comply with a request for information,'' the Department may use information that is adverse to the interests of that party as the facts otherwise available. The statute also provides that such an adverse inference may be based on secondary information, including information drawn from the petition.

Section 776(c) of the Act provides that where the Department relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The SAA, accompanying the URAA, clarifies that the petition is ''secondary information.'' *See*, SAA at 870. The SAA also clarifies that ''corroborate'' means to determine that the information used has probative value. *Id*. However, where corroboration is not practicable, the Department may use uncorroborated information.

The exporters that did not respond in any form to the Department's questionnaire have not cooperated at all. Further, absent a response, we must presume government control of these and all other PRC companies for which we cannot make a separate rates determination. Accordingly, consistent with section 776(b)(1) of the Act, we have applied, as total facts available the margin alleged in the petition, as adjusted by the Department. We considered the petition as the most appropriate information on the record to form the basis for a dumping calculation for these uncooperative respondents. In accordance with section 776(c) of the Act, we sought to corroborate the data contained in the petition.

The petitioner based its allegation of U.S. price on catalog prices of one of the respondents. The factors used in the petition are based on petitioner's own production experience. The factors in the petition consistent with the factors reported by responding companies on the record of this investigation. The surrogate values used by petitioner are based on publicly available information. Therefore, we detemine that further corroboration of the facts available margin is unnecessary.

We also applied adverse facts available to Dongguan based on the fact that we were unable to verify its response. *See* Comment 20 in the ''Interested Party Comments'' section of this notice, below.

Fair Value Comparisons

To determine whether respondents' sales of the subject merchandise to the United States were made at less than fair value, we compared the export price (EP) to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(1)(A)(i), we compared weighted-average EPs for the POI to the factors of production.

Export Price and Constructed Export Price

For Chen Hao Xiamen, Gin Harvest, Sam Choan, and Tar Hong, when the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and when constructed export price (''CEP'') methodology was not otherwise indicated, we calculated the price of the subject merchandise in the United States in accordance with section 772(a) of the Act. In addition, for Tar Hong, where sales to the first unaffiliated purchaser took place after importation into the United States, we based the price in the United States on CEP, in accordance with section 772(b) of the Act.

We excluded from our analysis all sales of products with a minimum thickness of less than 0.08 inch to the extent mistakenly or erroneously reported by the exporter in its sales listing. For Tar Hong, we also excluded all sales of three-piece sets where the combined thickness of the three items was less than 0.24 inch because we were unable to determine piece-specific prices and characteristics for such sets. *See* Comment 10, below.

We corrected respondents' data for errors and omissions found at verification. In addition, we made company-specific adjustments as follows:

1. Chen Hao Xiamen

The calculation of EP for purposes of the final determination did not differ from our preliminary calculations.

2. Dongguan

We based Dongguan's final dumping margin on adverse facts available. *See* Comment 20.

3. Gin Harvest

We calculated EP in accordance with our preliminary calculations, except for the following changes based on verification findings: (1) we excluded sales of one product which we found to be outside the scope of investigation; (2) we corrected the reported movement expenses for one sale; and (3) we corrected for all sales the reported distance from the factory to the port for calculating the surrogate value for foreign inland freight.

4. Sam Choan

We calculated EP in accordance with our preliminary calculations, except that we corrected the reported market-economy brokerage expense for sales to one customer based on verification findings.

5. Tar Hong Xiamen

We calculated EP and CEP in accordance with our preliminary calculations, except as follows, based on information derived at verification.

We recalculated discounts by applying the reported discount percentage to the gross unit price of the sale. We also recalculated marine insurance by applying a percentage based on value, rather than based on volume as reported, since this expense was incurred on a value basis.

For CEP sales, we reallocated movement expenses and added an amount for unreported U.S. brokerage expenses. We reallocated and corrected indirect selling expenses, all freight expenses not reported elsewhere (*see* Comment 15), and other expenses not reported elsewhere (*see* Comment 18). In this reallocation, we recalculated by dividing the combined POI expenses of Tar Hong's two U.S. affiliates, by the sum of the POI sales values from these entities. We also recalculated reported credit based on corrections to reported payment dates.

Normal Value

A. Factors of Production

In accordance with section 773(c) of the Act, we compared the NV calculated according to the factors of production methodology, except as noted below for Chen Hao Xiamen. Where an input was sourced from a market economy and paid for in market economy currency, we used the actual price paid for the input to calculate the factors-based NV in accordance our practice. *See Lasko Metal Products* v. *United States*, 437 F. 3d 1442, 1443 (Fed. Cir.1994) (''*Lasko*''). For all producers, we recalculated the values for materials purchased from market economies, based on our verification findings. We excluded Taiwan VAT assessed on Taiwan material purchases (*see* Comment 3).

Furthermore, for Tar Hong, we added PRC brokerage for market-economy inputs. For Gin Harvest and Sam Choan, the equivalent charges are included in the reported movement expenses as Hong Kong brokerage. In addition, for Tar Hong and Gin Harvest we added freight from the port to the factory for inputs purchased from market economies.

In instances where inputs were sourced domestically, we valued the factors using published publicly available information from Indonesia. Reported unit factor quantities were multiplied by Indonesian values. From the available Indonesian surrogate values we selected the surrogate values based on the quality and contemporaneity of data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POI, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics*. For a complete analysis of surrogate values, *see* the Valuation Memorandum: Preliminary Antidumping Duty Determination of Melamine Institutional Dinnerware Product from the People's Republic of China (PRC) dated August 14, 1996 (Preliminary Valuation Memorandum), and the Valuation Memorandum: Final Antidumping Duty Determination of Melamine Institutional Dinnerware Products (MIDP) from the People's Republic of China (PRC) dated December 20, 1996 (Final Valuation Memorandum).

We added amounts for overhead, general expenses, interest and profit, based on the experience of P.T. Multi Raya Indah Abadi (Multiraya), an MIDP producer in Indonesia (*see*, also, Comment 2), as well as for packing expenses incident to placing the merchandise in condition packed and ready for shipment to the United States. We have recalculated the percentages for overhead, selling, general and administrative (SG&A), and interest expenses using the detailed public version of Multiraya's financial statement placed on the record of this investigation by the respondents. In our recalculations, as detailed in the December 20, 1996 Final Valuation Memorandum, we have eliminated the source of possible double counting for electricity alleged by respondents in their case brief. For Tar Hong, we calculated a value for the cost of transporting material purchases from the PRC port to the factory using the surrogate value for truck freight. Based on verification results, we revised calculations for Gin Harvest, as follows. We revised the value of freight for certain material inputs to correct the reported distance from the supplier to the factory. We also revised reported electricity consumption and reported packing material consumption for certain products. For Sam Choan, because freight data for diesel fuel was not reported, we applied facts available based on the furthest distance to a supplier cited in the response.

B. Multinational Corporation Provision

For Chen Hao Xiamen, petitioner alleged that section 773(d)(3) of the Act, the special rule for multinational corporations, should be applied to Chen Hao Xiamen's NV. We have determined that the record evidence for Chen Hao Xiamen supports a finding that the first two criteria of the MNC provision have been met. In order to determine if the third criterion was satisified, we calculated NV for Taiwan-produced merchandise (affiliated party NV) in addition to calculating NV using the factors of production methodology, described above, to determine whether affiliated party NV exceeded PRC NV.

We note that there are several ways in which the third criterion may be applied in this case. In the preliminary determination, we found that the affiliated party NV (price or COP, as appropriate) exceeded the PRC NV for a substantial majority (by quantity) of the U.S. sales. An alternative approach is to match each Taiwan transaction with its most comparable PRC NV. For each Taiwan transaction, the PRC NV and the Taiwan price are compared to each other; if the Taiwan price exceeds the PRC NV for a preponderance of Taiwan sales (by quantity), all comparisons of EP to NV are made using Taiwan sales as NV. Yet another approach is to determine the number of models where the Taiwan NV is higher than the NV based on the factors of production. Whichever approach to apply the third criterion of the MNC provision is used, however, the result in each case would be to use the Taiwan NV. In any event, whether or not the MNC provision applies, the result would be the same—a *de minimis* or zero margin for Chen Hao Xiamen.

In applying Taiwan NV, we compared Taiwan sales to Chen Hao Xiamen's U.S. sales in the same manner as discussed in our preliminary determination, except that we adjusted COP in the following manner: a) we revised the financial expense to exclude foreign exchange gains, and to include the interest expense associated with loans from affiliated parties; and b) we adjusted factory overhead expenses to include an amount for pension expenses. These changes are discussed in detail in the final determination notice in the companion Taiwan investigation.

With regard to the calculation of Chen Hao Xiamen's factors of production, at verification, we found that Chen Hao Xiamen did not account for a rebate in its reported cost of melamine powder purchased from a Taiwan supplier. We do not have sufficient information on the record to accurately allocate this rebate to Chen Hao Xiamen's costs, since neither Chen Hao Xiamen nor Chen Hao Taiwan identified the total amount of purchases from this supplier that were eligible for this rebate, and transferred to Chen Hao Xiamen, as discussed in the Department's verification report of Chen Hao Taiwan. Consequently, we have not adjusted Chen Hao Xiamen's melamine powder costs for the rebate.

In addition, we added PRC brokerage and freight from the port to the factory for market-economy inputs. We also calculated a value for the cost of transporting material purchases from the PRC port to the factory using the surrogage value for truck freight. Finally, we revised the reported consumption of packing materials for certain products, based on our findings at verification.

For comparisons of Chen Hao Xiamen's EP to NV based on Taiwan prices, we made circumstance of sale adjustments for differences in imputed credit, bank charges incurred on U.S. sales, and royalty expenses incurred in Taiwan on Taiwan sales. As Chen Hao Xiamen did not report credit expenses and bank charges in its sales response, we calculated these expenses using payment information obtained during verification. Chen Hao Taiwan, the parent company, reported in its public questionnaire response that it did not borrow in U.S. dollars and thus used the average short-term interest in the United States during the POI of 8.83 percent, as reported in *International Financial Statistics,* published by the International Monetary Fund, to calculate imputed credit for its U.S. sales. We applied this same rate to calculate credit expenses for Chen Hao Xiamen's U.S. sales.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

Interested Party Comments

General Comments

Comment 1: Scope of Investigation

Respondents argue that the scope of investigation should be revised to exclude melamine dinnerware that exceeds a thickness of 0.08 inch and is intended for retail markets when such products are accompanied by

appropriate certifications presented upon importation to the United States.

Petitioner objects to respondents'' scope revision proposal because, it believes, it has no legal or factual basis and would result in an order that would be very difficult to administer. Petitioner further contends that antidumping orders based on importer certifications of use, such as the proposal advocated by respondents, are difficult to administer and should be avoided where possible. Petitioner argues that if respondents want to produce merchandise for the retail market that presents no scope issue, respondents can produce merchandise of a thinner wall thickness that falls outside of the scope.

DOC Position. We agree with petitioner. Petitioner has specifically identified which merchandise is to be covered by this proceeding, and the scope reflects petitioner's definition. As we stated in *Final Determination of Sales at Less Than Fair Value: Carbon and Alloy Steel Wire Rod from Brazil* (59 FR 5984, February 9, 1994), [p]etitioners' scope definition is afforded great weight because petitioners can best determine from what products they require relief. The Department generally does not alter the petitioner's scope definition except to clarify ambiguities in the language or address administrability problems. These circumstances are not present here.

The petitioner has used a thickness of more than 0.08 inch, not end use, to define melamine ''institutional'' dinnerware. The physical description in the petition is clear, administrable and not overly broad. Thus, we agree with petitioner that there is no basis for redefining the scope based on intended channel of distribution or end use, as respondents propose.

Comment 2: Calculation of Profit, Overhead, SG&A, and Interest

Petitioner proposes that the Department use a surrogate profit figure based on sales made in the ordinary course of trade by Indonesian producer, Multiraya, the respondent in the concurrent *MIDP from Indonesia* investigation. Petitioner characterizes the profit figure used at the preliminary determination (*i.e.*, as derived from Multiraya's 1995 financial statement) as inappropriate because it covers non-subject merchandise, below-cost sales, and dumped export sales—all of which petitioner contends should not be included in the profit calculation.

Petitioner argues that the current law is very clear in that, when available, profit for a constructed value (CV) calculation is home market profit. Petitioner asserts that the Department's consistent practice has been to use either the former statutory minimum of eight percent or else a domestic, rather than an export, profit value.

Respondents argue that the Department should use the public summaries of Multiraya's 1995 financial statement to calculate surrogate overhead, SG&A, interest expense, and profit. According to respondents, Multiraya exports merchandise that is virtually identical to that exported from the PRC; therefore, Multiraya's company-wide profit rate is pertinent to the valuation of PRC merchandise. To the extent that the Department uses Multiraya's company-wide costs to calculate constructed value in the Indonesian proceeding, respondents contend that it should also base surrogate profit on company-wide Multiraya data.

In addition, respondents argue that petitioner's profit calculation is contrary to the Department's practice of basing NV in NME cases on export data. Respondents contend that the Department's practice is meant to ensure that product disparities like those reflected in petitioner's profit calculation do not undermine the accuracy of the CV. Moreover, respondents claim that there is a disparity between the products sold by Multiraya in the home market and the products exported by the PRC companies; the vast majority of products exported by the PRC respondents were decorated and glazed, unlike Multiraya's home market sales, which were virtually all undecorated and unglazed. Therefore, the respondents argue that the Department should use the company-wide profit from Multiraya's public version financial statement to calculate the applicable surrogate profit percentage.

DOC Position. We agree with petitioner and have used as surrogate profit a percentage derived from Multiraya's public version questionnaire response. In this investigation, we are faced with the unusual situation of having on the record both a public financial statement from the surrogate country as well as the public version questionnaire responses of the Indonesian respondent in the concurrent investigation. The Department's preference is to use the most product-specific information possible from the surrogate market to calculate surrogate profit. Insofar as publicly ranged data may be imprecise, it would be speculative to rely on such data as an accurate measure of whether sales are below cost and outside the ordinary course of trade. Accordingly, for the purpose of deriving a surrogate profit percentage, we have used all sales in the public version, rather than excluding allegedly below cost sales.

Comment 3: Tax Paid on Melamine Purchased From Taiwan

Petitioner argues that the Department should affirm its practice in the preliminary determination and include the tax paid by the PRC respondents on purchases of melamine powder from Taiwan in the valuation of material costs. Petitioner asserts that the respondents pay the Taiwan value added tax (VAT) to unaffiliated suppliers either directly or through affiliated companies in Taiwan, and that the tax imposes a net cost because the PRC companies are not collecting the VAT from their customers. Consequently, petitioner contends that the tax should be included in the material cost calculation. Petitioner claims that even if the Taiwan government rebates to the respondent's affiliate any such tax collected, it does not mean that the purchaser benefits from the rebate.

Respondents argue that the Department should exclude from the market-economy prices of material inputs the Taiwan VAT that was paid upon purchase, but rebated or credited upon export from Taiwan to the PRC. Respondents assert that the Department verified that Taiwan VAT paid on materials purchased from Taiwan suppliers is credited to the purchasers'' VAT liability account. As a result, respondents claim that they receive a benefit equal to the amount of VAT paid. Thus, VAT is effectively not paid on these exports.

DOC Position. We agree with respondents. At verification, we confirmed that Taiwan VAT on melamine powder paid by the Taiwan companies is offset by the VAT owed by the PRC purchaser (respondent). This offset is equivalent to a rebate since the PRC purchaser receives a credit against the VAT owed and does not have to pay a VAT amount (as VAT owed is equal to the amount of VAT paid). The net effect is that the respondent incurs a cost for melamine powder exclusive of VAT. Accordingly, we have not added VAT from the market economy to the value of these inputs.

Comment 4: Use of Taiwan Prices for Melamine Powder Purchased from PRC Suppliers

Petitioner argues that the Department should not use Taiwan prices for all melamine powder purchased by PRC producers if the producer has obtained

some of its melamine powder from the PRC. Petitioner claims that it is not enough to provide that the market-economy price may be disregarded ''where the amount purchased from a market economy supplier is insignificant'' (Antidumping Duties; Countervailing Duties; Notice of Proposed Rulemaking, 61 FR 7,309, 7,345 (February 27, 1996)). According to petitioner, it should be the other way around—only if the amount purchased within the non-market economy is insignificant will it be appropriate to use the price actually paid to market economy suppliers of the input to represent the overall cost of that factor of production. Or, at a minimum, petitioner argues, the overall value of the factor in question should be a weighted average of the surrogate value and the market-economy price.

Respondents argue that petitioner offers no reasonable justification as to why the Department should not use prices paid to market economy suppliers to value melamine powder purchased from a PRC supplier. Respondents state the Department's practice is to use the price paid to a market economy supplier (*See e.g. Bicycles*) and that this practice has been upheld by the Federal Circuit. *Lasko Metal Products, Inc.* v. *United States,* 43 F.3d 11442 (Fed. Cir. 1994).

DOC Position. We agree with respondents. When melamine powder was purchased from a market economy, we used the prices paid to market economy suppliers to value this input, even though the producer did not purchase 100 percent of the melamine powder from a market economy. We believe that the market economy price is the most appropriate basis for determining the value of melamine powder purchased from PRC suppliers.

Comment 5: Labor Rate Calculation

Petitioner argues that the Department's labor rate calculation should reflect at most 50 weeks of work time, as opposed to the 52-week work year that was used in the preliminary determination, because Attachment 4 of the August 14, 1996, Preliminary Valuation Memorandum notes that employers in Indonesia are required to provide paid annual leave of at least two weeks per annum.

Respondents argue that just because Indonesian employers are required to give two weeks paid leave per year does not mean that workers actually take two weeks leave, but simply reflects the fact that Indonesian workers have the option of taking this time while receiving full pay. Respondents therefore argue that no adjustment is necessary to the labor rate because the Department cannot assume that the amount of leave allowed by employers is actually taken by workers.

DOC Position. We agree with respondents that our labor rate calculation is correct. We used monthly labor rates from the 1995 issue of *Indonesia: A Brief Guide for Investors,* which already include paid leave and other benefits, as detailed in the Preliminary Valuation Memorandum. We subsequently derived an hourly rate from the monthly rates, which already includes some benefits. Accordingly, we believe that it would be speculative to adjust the rate as reported for any potentially used vacation days.

Comment 6: Inflation of Costs Denominated in U.S. Dollars

Petitioner argues that the Department made an error in its preliminary determination by not inflating costs denominated in U.S. dollars, particularly those for cardboard and containerization. Petitioner contends that the costs in question are internal Indonesian costs which which would have been incurred in rupiahs, even if they happened to have been expressed in 1993 U.S. dollars. Petitioner claims that the changes in the rupiah/dollar exchange rate have not reflected the considerable inflation in Indonesia in recent years, so it is not appropriate to leave these adjustments at their original dollar amounts.

Respondents argue that, contrary to petitioner's suggestion, no adjustment or conversion of figures denominated in U.S. dollars is necessary. Respondents argue that the Department has rejected similar requests in other NME cases. In this case, according to respondents, the value and prices denominated in U.S. dollars are subject to the risks and opportunity costs associated with the U.S. dollars, and are not affected by Indonesian inflation. Respondents contend that petitioner's exchange rate inflation adjustments and exchange rate conversions would bring in numerous factors that would distort the factor value.

DOC Position. With regard to the figures for cardboard and containerization, we agree with respondents that no adjustment or conversion of figures denominated in U.S. dollars is necessary. In accordance with Department practice with regard to NMEs, surrogate values reported in U.S. dollars are not adjusted for inflation. *See Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the Republic of Hungary* (56 FR 41819, August 23, 1991) and *Final Determination of Sales at Less Than Fair Value: Ferrovanadium and Nitrided Vanadium from the Russian Federation* (60 FR 27957, 27963, May 26, 1995). *See* Valuation Memorandum: Preliminary Antidumping Duty Determination of Ferrovanadium from Russia dated December 27, 1994.

Comment 7: Duty on Melamine Powder

Petitioner believes that the Department should increase the cost of melamine powder imported into the PRC by the PRC duty rate applicable to such imports. Petitioner argues that import duties are as much a feature of non-market economies as they are of market economies, and that the proper rate in this case is the PRC duty rate. Petitioner argues that inclusion of the PRC duty rate is necessary to reflect the producer's actual cost for the imported input.

Respondents argue that the Department normally disregards such rates since it deems all NME costs to be unreliable. Respondents further argue that the Department cannot accept the valuation of PRC import duties yet disregard all other PRC values and expenses.

DOC Position. We agree with respondents that we normally disregard such a duty because it is a PRC cost denominated in RMB. *See Final Determination of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans from the People's Republic of China* (56 FR 55271, October 25, 1991). Accordingly, we have not increased the cost of melamine imported into the PRC by this duty rate.

Comment 8: Consumption and Yield Information

Petitioner argues that verification revealed Tar Hong's reported consumption of both melamine powder and LG powder to be grossly unreliable. Petitioner states that if the Department does not reject the factor consumption data entirely, then an appropriate adjustment would be to increase the melamine powder consumption for all Tar Hong products by the largest percentage amount which the Department found to be understated. Petitioner argues that this adjustment is conservative, given that four of the five samples described in the verification report were understated.

Similarly, petitioner claims that verification establishes that Gin Harvest maintains product specific yield information, yet it reported an overall yield figure which it applied to all of its products. Petitioner further argues that, because Gin Harvest produces and sells very different products to the United

States, these products necessarily have dramatically different product-specific yields. This sharply differing yield result is fully consistent with the yield information provided by the domestic industry in this investigation, according to petitioner. Petitioner argues that the Department should not accept the overall yield data supplied by Gin Harvest because the issue of product-specific yields has been raised numerous times in this investigation, yet Gin Harvest ignored its more accurate data and submitted less accurate data in order to obtain a lower margin. Finally, petitioner claims that if the Department accepts Gin Harvest's yield data, it should apply the overall yield to each heat treatment step used to produce each transaction listed in the U.S. sales database.

Tar Hong asserts that the Department verified its melamine powder and LG powder consumption allocation methodology and found no discrepancies. Tar Hong further claims that petitioner attacks the reliability of its melamine powder and LG powder allocations because of the production sampling performed at the verification in Xiamen. Although the Department's product sampling showed that per-unit, product-specific consumption was greater than that reported in some instances, according to Tar Hong, many variables (such as air temperature and moisture content on the day of production and the varying amounts of powder actually put into the mold by the individual workers) affect this production process so that the per-unit consumption figure will not be exactly the same for each production run. Accordingly, Tar Hong argues that the Department should ignore petitioner's request to increase the melamine powder consumption for all products and instead use the figures reported by Tar Hong.

Gin Harvest argues that it and other respondents are unable to report material consumption on a product-specific basis. Gin Harvest claims that although the Department noted that Gin Harvest has some production process records that would permit a calculation of product-specific material consumption, it also noted that such records are not maintained for any extended period of time by respondents in the normal course of business. Gin Harvest argues that it should not be punished for failing to provide data that it does not have.

DOC Position. The Department's preference is to use product-specific data. Where such information does not exist, the Department will use the most specific and reasonable information available (*See, Final Determination of Sales at Less Than Fair Value: Welded Stainless Steel Pipe from Malaysia* (59 FR 4023, 4027, January 28, 1994). With regard to consumption, petitioner's argument relies on a selective reading of the Tar Hong verification report. Although our initial sampling, based solely on material withdrawn from inventory, indicated potential under-reporting, a second, more comprehensive sampling, which also accounted for materials returned to inventory, showed no consistent pattern of under-or over-reporting (*See* Tar Hong verification report at pages 24–25.) Although the documents used in our sampling could be used to calculate product-specific yields, the only documents we reviewed were contemporaneous with verification, not the POI. Verification revealed no indication that Tar Hong retained records at this level of detail (records showing materials withdrawn and returned to inventory) for more than a week. Therefore, while our sampling showed some variations between products, there is no information on the record to indicate that Tar Hong's overall production factor methodology is distortive. In the absence of any other, more specific allocation methodology available to Tar Hong, we have accepted its consumption factor reporting.

With regard to Gin Harvest's yield data, it reported an overall yield figure because it claimed that its records do not permit it to calculate product-specific yield data. Our verification revealed nothing to contradict the claim that Gin Harvest does not maintain product-specific yield data in its normal course of business.

Further, petitioner's proposed adjustment methodology of applying the yield percentage at every production stage encountered is inconsistent with the Department's verification findings regarding the manner in which the PRC respondents, including Gin Harvest, calculate yield. Petitioner's methodology incorrectly assumes that, at each step (*i.e.*, heat treatment, decoration, and glazing), the producer inspects the product and discards semi-finished products which do not meet specifications. However, as described in the respondents' questionnaire responses, it is not until all production steps have been completed that the respondents discard off-specification merchandise. That is, the overall yield figure is calculated based on production results after all production steps are completed. There is no information on the record to identify the actual yields at each step of production based on the POI production records maintained by Gin Harvest. Applying this overall yield to each production step would effectively double-or triple-count the rejection rate and thus unduly increase Gin Harvest's consumption factors. Gin Harvest's allocation was reasonable based on the records available to it. Accordingly, we have made no adjustment to its reported material consumption factors.

Company-Specific Comments

Tar Hong

Comment 9: Reporting of CEP and EP Sales

Petitioner believes that Tar Hong incorrectly reported certain CEP sales as EP sales. Petitioner argues that the burden of proof is on respondent to satisfy the Department's four-prong test regarding the classification of U.S. sales as cited in the Department of Commerce, Antidumping Manual, Chapter 7 at page 3 (revised 8/91). Petitioner contends that in this case, Tar Hong has not even addressed two of the Department's four criteria. Petitioner argues that at verification, the Department found that the U.S. entities play a central role in these sales, which resemble reported CEP sales in all aspects, except that they are not introduced into U.S. inventory. According to petitioner, Tar Hong's U.S. affiliates have the authority to set the price and the quantity of the potentially dumped merchandise. Petitioner also disagrees with Tar Hong's contention that the role of the U.S. affiliates is less than that of the U.S. affiliates in the first administrative review of *Certain Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Review*, 61 FR 18547, 18551 (April 26, 1996) (*Carbon Steel*). Petitioner argues that the Korean firms in *Carbon Steel* had full control of the U.S. sales, and the U.S. affiliates were merely paper processors, as evidenced by the information placed on the record by the Korean firms indicating that the U.S. affiliates had no power to negotiate or approve sales. Consequently, petitioner argues that the Tar Hong sales in question should be treated as CEP transactions.

Tar Hong argues that it properly classified certain sales as EP sales in accordance with the Department's three-factor test, as stated in *Carbon Steel*. First, Tar Hong claims that it has demonstrated that the sales transaction occurs prior to importation into the United States. Secondly, Tar Hong states that direct shipment from Tar Hong Xiamen to the unrelated U.S. customers is a normal commercial distribution

channel used for these U.S. customers. Lastly, Tar Hong asserts that the U.S. affiliates perform limited liaison functions serving primarily as processors of sales-related documentation and communication links with the unrelated buyers. Accordingly, Tar Hong claims that the functions performed by its U.S. affiliates are consistent with selling functions that the Department has determined in other cases to be of a kind that would normally be undertaken by the exporter (*see Carbon Steel*).

DOC Position. We agree with respondents that these sales are properly treated as EP sales. Based on the record evidence, Tar Hong's U.S. affiliates are merely processors of sales-related documentation and a communication link with the unrelated customers. Although these entities play an important role in Tar Hong's sales and distribution process, that role is limited to sales documentation processing and communication links. We find no compelling evidence in Tar Hong's responses or in our verification findings to treat these sales as CEP sales. Consistent with our approach in such cases as *Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from Finland* (56 FR 56363, November 4, 1991), we have treated these sales as EP sales.

Comment 10: Transactions Involving Dinnerware Sets

Petitioner states that Tar Hong improperly included non-subject merchandise in its reported sales when it added the thicknesses of the individual pieces of a set (plate, bowl, and cup) together to determine whether the dinnerware set was subject merchandise. Similarly, petitioner argues, pricing for dinnerware sets as well as the factors of production was reported on a combined basis using the plate in the dinnerware set as the identified product. Petitioner argues that this grouping of data for sets was contrary to the instructions in the questionnaire and prevents an item-by-item fair value comparison. Petitioner asserts that if the Department uses this data, it should apply the highest margin for any other transaction to all transactions involving sets as facts available.

Tar Hong contends that the Department has data necessary to calculate piece-specific margins for Tar Hong's set sales and factors because the Department verified that Tar Hong reported the data for sales of products sold in sets on the same basis it reported the data for the factors of production for these products.

DOC Position. We agree with Tar Hong and have appropriately adjusted our calculations to ensure a proper comparison. We excluded all sales of sets where the combined thickness is less than 0.24 inch. We have considered all pieces of a set to be subject merchandise when measurements are equal or greater than 0.24 inch.

Comment 11: Unit Price Reporting

Petitioner contends that, in addition to the errors identified by the Department concerning Tar Hong's reporting of U.S. unit prices on a per-piece, rather than on a per-dozen, basis for many sales, there is reason to believe that there are additional errors of this type which were not individually identified by the Department. Accordingly, petitioner asserts that the Department should compare the margin in the final determination for Tar Hong's sales of pieces with the margin calculated on the sale of dozens or cases, and if the margins for the piece sales are lower than the margins for dozens and cases, then, as facts available, the piece calculations should be disregarded and the sales of dozens or cases should be relied upon for the final determination.

Tar Hong argues that the errors found in its unit reporting do not merit application of facts available. Tar Hong contends that the Department verified that no other sales reported contained such errors.

DOC Position. We examined this issue at verification and are satisfied that the record is complete and accurate with respect to the reported quantities and per-unit prices of U.S. sales. Accordingly, we used the corrected information in our calculations for the final determination.

Comment 12: Production Quantity Data

Petitioner claims that the production quantity data submitted by Tar Hong on two prior occasions is grossly inaccurate, and that Tar Hong's shifting stance regarding the amount of merchandise produced during 1995 confirms that its most recent submission on October 23, 1996, is not reliable. Petitioner argues that the total production quantity is a figure that is fundamental to the integrity of the submission, and that Tar Hong's repeated corrections leave no reasonable basis to believe that its latest number is accurate. Accordingly, petitioner argues, the figure should be rejected.

Tar Hong claims that the Department verified its production quantities and confirmed the accuracy of its data.

DOC Position. We agree with Tar Hong. We have accepted Tar Hong's explanation for the discrepancies and have verified its response in this regard. Section 782(e) of the Act states that the Department shall not decline to consider information that does not meet all of its requirements if:

(1) The information is submitted by the deadline established for its submission, (2) the information can be verified, (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination, (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information, and (5) the information can be used without undue difficulties.

Tar Hong's information meets all of these requirements. Accordingly, we have no basis to conclude that the earlier responses distorted the Department's analysis or otherwise impeded this proceeding.

Comment 13: Total Sales Value

Petitioner states that Tar Hong has dramatically overstated the unit price on a number of U.S. sales transactions. Petitioner contends that if the Department concludes that the application of general facts available for Tar Hong is inappropriate (*see* Comment 19 below), it must adjust for this exaggeration of submitted prices by assuming that affected sales are of products with margins, and deducting the amount that the CEP and EP sales values were overstated from total U.S. price.

Tar Hong claims that any discrepancy in its U.S. sales value reconciliation is due to petitioner's miscalculation of Tar Hong's sales values. Tar Hong adds that petitioner offers no explanation of its calculation, and suggests that petitioner's calculation failed to properly account for sales sold in units of cases or dozens.

DOC Position. We agree with Tar Hong. Petitioner misinterpreted the information in a verification exhibit. The document does not include the EP sales booked in Taiwan; it applies only to the sales booked in the United States. Moreover, the exhibit cited by petitioner is not the only document the Department used to confirm Tar Hong's sales reporting, as discussed in the verification report. Based on the sum of our verification findings, we found no discrepancies in the total volume and value of sales reported.

Comment 14: Ocean Freight

Petitioner argues that Tar Hong incorrectly assumed that all ocean

freight shipments were made in full container loads and that, the reported volumes of the master pack cartons, which are the basis for the movement charge allocations, are wrong. Petitioner claims that although Tar Hong provided revised information for the master pack cartons at verification, this information was not verified and therefore cannot be used. Petitioner argues that for purposes of the final determination, the container load error must be corrected and that, for the master carton error, either the Department should use general facts available or the highest unit freight reported for each freight adjustment affected by the errors.

Tar Hong contends that the Department should accept its revised allocation because the Department found that Tar Hong's volume-based methodology to recalculate international freight was supported by its records.

DOC Position. With regard to Tar Hong's ocean freight shipments, we found that the majority were in fact made in full container loads. Per our instructions, Tar Hong has reallocated EP ocean freight to account for our verification findings. We have also reallocated CEP ocean freight expenses based on our verification findings. In both situations, we consider the allocations to be proper.

Furthermore, although we did not specifically verify the revised information submitted at verification with regard to the volumes of the master pack cartons, the remainder of Tar Hong's response was verified, and the revised information is consistent with Tar Hong's verified information. Accordingly, we have accepted Tar Hong's information for the purpose of recalculating CEP movement expenses.

Comment 15: U.S. Warehouse to Customer Freight

Petitioner contends that Tar Hong's statements that it does not incur freight charges from the U.S. warehouse to the customer are unsupported. Petitioner claims that the verification report notes that Tar Hong's invoices report terms of CEP sales as ''delivered''. Petitioner therefore asserts that all freight expenses from Tar Hong's financial statements should be allocated to CEP sales.

Tar Hong claims that the Department verified that, notwithstanding the printed ''Delivered'' term on Tar Hong's invoice, Tar Hong's CEP customers either come to Tar Hong's warehouse and pick up their purchased products, or make their own freight arrangements. Tar Hong asserts that the Department verified that, for the few deliveries that it made using its own vehicles, its allocation methodology was reasonable.

DOC Position. We have accepted Tar Hong's explanation, but have recalculated and reclassified freight expenses based on our verification findings. Tar Hong's methodology allocated freight expenses to all CEP sales as a movement expense. That is, Tar Hong made no attempt to identify which particular sales may have actually incurred warehouse to customer freight. Since Tar Hong did not, and could not, allocate this expense only to those sales which incurred the expense, we determine that it is appropriate to treat all movement expenses not otherwise accounted for (*i.e.*, warehouse to customer expenses) as indirect selling expenses. In our recalculation of indirect selling expenses, we have also included an amount for freight expenses identified in the financial statements, but not included in Tar Hong's calculation. (*See* Comment 18 below.) In this manner, we have included all expenses related to freight.

Comment 16: Packing Weights

Petitioner argues that it is clear from the verification report that Tar Hong's packing weights are unreliable. Petitioner contends that the Department should increase the packing costs by the largest percentage of under reporting found at verification or, at the least, increase these weights by an average of the under reporting of the five samples.

Tar Hong argues that packing costs are reliable and require no further adjustment because the measured weights of the packing materials were within acceptable tolerances.

DOC Position. We agree with Tar Hong. We verified that the packing weights were within acceptable tolerances.

Comment 17: Unreported Returns and Claims

Petitioner states that where verification exhibits show evidence of returns and claims for Tar Hong that were not reported as U.S. warranty expenses or allowances, at a minimum, the Department should apply information from the verification and adjust total U.S. price accordingly.

Tar Hong claims that petitioner's discovery of alleged unreported returns and claims relate to nonsubject merchandise. Accordingly, no adjustment by the Department is necessary.

DOC Position. We agree with Tar Hong. We found no evidence at verification of warranty claims for the subject merchandise. Tar Hong's explanation is consistent with our findings.

Comment 18: Unreported Movement Charges

According to petitioner, the financial statements of Tar Hong's U.S. affiliates indicate that there are certain expenses that were incurred by respondent, but not reported as selling expenses or movement charges. Petitioner contends that the Department should account for these expenses by applying the total of these amounts directly against the margins.

Tar Hong states that the Department verified that the allegedly unreported charges were not direct selling expenses or movement charges, as petitioner claims. Accordingly, no adjustment to the margin calculation is warranted.

DOC Position. We agree with petitioner that these expenses should be accounted for. However, we disagree with petitioner's contention that the amount of the expenses should be applied directly against the margins. Petitioner offers no basis to consider this approach and there is no precedent for applying it here. Instead, we have included these expenses as part of our recalculation of indirect selling expenses. As discussed above at Comment 15, we have treated Tar Hong's unreported warehouse-to-customer expenses as indirect selling expenses. The additional expenses identified by petitioner appear properly classified in this instance as indirect selling expenses as well.

Comment 19: Use of Facts Available for Tar Hong

Petitioner argues that Tar Hong's EP and CEP prices are grossly overstated through a series of reporting errors or misstatements, including those addressed above. Accordingly, petitioner contends, the Department cannot reasonably conclude that the U.S. sales data base is reliable. Further, petitioner contends that Tar Hong's NV data is also unreliable because, despite numerous changes, Tar Hong's total production figure is inaccurate, its treatment of sets makes a proper factors analysis impossible, and the weights of the reported products as well as the packing materials are systematically understated. Moreover, petitioner claims that the corrections submitted at verification should be rejected because an entirely new factors database was submitted and petitioner did not have a meaningful opportunity to comment on the new data. Petitioner concludes that the Department should use facts available because Tar Hong's data is unreliable and no acceptable means of correction exists.

Tar Hong argues that the Department was able to verify all corrections to source documents and the reason for the corrections. Furthermore, according to Tar Hong, there is no evidence that Tar Hong failed to cooperate with the Department by not acting to the best of its ability to comply with requests for information. Tar Hong believes that in those situations where there are discrepancies, the Department should weigh the record evidence to determine what type of change, if any, would be the most probative of the issue under consideration.

DOC Position. We do not agree with petitioner's assertion that Tar Hong's data is unreliable and no acceptable means of correction exists. Moreover, we do not agree with petitioner that Tar Hong's revised factors database contains entirely new data. As discussed in our responses above, we have rejected many of petitioner's claims with regard to Tar Hong's data. The remaining errors are minimal and do not undermine the integrity of the response. Thus, consistent with our approach in such cases as *Ferrosilicon from Brazil: Final Results of Antidumping Duty Administrative Review*, 61 FR 59407 (November 22, 1996), the use of facts available is not warranted in this instance.

Dongguan

Comment 20: Facts Available

Petitioner argues that the seriousness of the defects in Dongguan's response is evident in that the Department was unable to verify its U.S. sales. Petitioner claims that the verification report records the Department's efforts on this critical issue, and confirms the suspect nature of the data. For example, petitioner cites the Department's finding in the verification report that no confirmation of sales of the subject merchandise to the corporate tax statement was possible. Furthermore, petitioner argues that the Department was unable to complete a sales quantity document trace and that Dongguan's sales records contained duplicate invoices. Petitioner further contends that a failed verification is basically the same as a failure to respond at all and facts available must be used.

Dongguan argues that, although the Department was unable to tie the sales beyond the general ledger, it also noted that it did not observe any apparent inconsistencies in the sales reporting, as revised through verification. Dongguan claims that all other aspects of the accounting system were verified as accurate and reliable. Dongguan also claims that, although the Department was unable to tie sales to the corporate income tax statement, it was able to verify the general integrity and reliability of the sales reporting data from the invoices to the response and to its accounting system. Dongguan asserts that the Department was also able to verify that non-melamine sales income reported in the accounting system was posted accurately and reliably in the corporate tax system. Accordingly, Dongguan believes that the Department need not apply facts available, given the overall reliability of the accounting system.

*DOC Position.*We agree with petitioner. Dongguan's failure to reconcile its sales response beyond the general ledger, coupled with the absence of reliable alternative support documentation, such as verifiable sequential invoice records, leaves no basis to accept the integrity of the sales response and constitutes a verification failure under Section 776(a)(2)(D) of the Act. A complete verification failure also renders a response unusable under section 782(e) of the statute. A verification failure of this magnitude demonstrates Dongguan's ''failure to cooperate by not acting to the best of its ability to comply with our requests for information.'' Accordingly, for the above-mentioned reasons, and consistent with *Pasta from Turkey*, 61 FR 30309, 30312 (June 14, 1996), we based Dongguan's final dumping margin on adverse facts available. In addition, because this margin is based on facts available, all other issues raised by the parties concerning Dongguan are moot.

Sam Choan

Comment 21: Reporting Errors

Petitioner states that the verification report identifies a large number of sales transactions of nonsubject merchandise that were included in the preliminary determination. Petitioner further contends that the difficulties experienced by the Department in verifying Sam Choan's product weights undermine the reliability of the response and that Sam Choan's response should be rejected because none of these transactions were accurately reported. If the Department decides to use Sam Choan's data, petitioner asserts that the weights for certain product codes must be increased, consistent with the verification findings.

Sam Choan argues that its revised sales listing reflects the weights and thicknesses verified by the Department. Sam Choan further states that the Department should exclude any merchandise that does not fall within the scope of investigation.

DOC Position. We have used the weights, as corrected per our verification, in our final determination. We find no basis to conclude that errors in the weight reporting affect the overall integrity of the response. As described in *Ferrosilicon from Brazil: Final Results of Antidumping Duty Administrative Review*, 61 FR 59407 (November 22, 1996), these errors are not substantial and thus do not affect the integrity of the response.

With regard to the reporting of out-of-scope merchandise, we have excluded this merchandise for purposes of the final determination.

Chen Hao Xiamen

Comment 22: Application of the Multinational Corporation Provision

Chen Hao Xiamen argues that the Department's application of the MNC rule in this case is not supported by the statute because the Department has failed to demonstrate that the special and unique circumstances required for application of the MNC rule are present in this investigation. Furthermore, according to Chen Hao Xiamen, its reported factors of production have been verified and accurate surrogate country information exists to value the factors of production. In addition, Chen Hao Xiamen argues that the Department's application of the MNC provision arbitrarily assumes that a ''proper comparison'' based on the factors of production and surrogate valuation is impossible for Chen Hao Xiamen, but is possible for all other respondents. Accordingly, for purposes of the final determination, Chen Hao Xiamen believes that the Department should not apply the MNC rule to Chen Hao Xiamen and instead should apply the surrogate country data to value its factors of production.

Petitioner objects to respondents' claim that the MNC provision does not apply to the Chen Hao respondents. Petitioner argues that respondents misstate the law when they claim that the MNC provision applies only when a comparison based on the factors of production and surrogate valuation is not possible. According to petitioner, there is no requirement that it be impossible to determine NV in the exporting country. Moreover, petitioner argues that the very close cooperation between the Chen Hao companies, confirmed at verification, makes a compelling case for application of the MNC to prevent the use of the the PRC company as an export platform. Finally, petitioner believes that given the very substantial changes it believes should be made to the factors analysis, the NV for

the PRC may exceed that of Taiwan. However, if the NV for Taiwan remains higher, as was the case in the preliminary determination, the petitioner urges that the Department once again apply the MNC provision.

DOC Position. The MNC rule applies when the criteria of section 773(d) of the Act are met, regardless of whether a comparison based on factors is otherwise possible. For Chen Hao Xiamen, we have determined that the record evidence supports a finding that the first criterion of the MNC provision (ownership of the production facilities in the exporting country by an entity with production facilities located in another country) has been met. The second criterion of the MNC provision (concerning viability of the PRC market) has been met, *per se,* because Chen Hao Xiamen, the PRC exporter, did not make any sales at all in the PRC market during the POI.

The third criterion was also met because Taiwan NV exceeded NV based on the factors of production. See ''B. Multinational Corporation Provision'' section of this notice.

Comment 23: Melamine Consumption

Petitioner states that the verification confirmed that Chen Hao Xiamen used a methodology that leads to an understatement of melamine powder consumption. Petitioner argues that Chen Hao Xiamen's methodology is in contrast to the other PRC respondents and should be restated to include all POI consumption.

Petitioner further argues that the verification report makes clear that Chen Hao Xiamen could have provided yields on a product-specific basis but instead reported an average that hides the peaks and valleys in yields. Petitioner claims that if the Department accepts Chen Hao Xiamen's yield data, it should apply the overall yield to each heat treatment step indicated for each transaction in the U.S. sales database.

Chen Hao Xiamen argues that it accurately reported its melamine powder consumption and petitioner has provided no reasonable basis as to why restating melamine powder consumption from a batch-by-batch basis to a total POI basis would be any more accurate than its current reporting. Accordingly, Chen Hao Xiamen believes that the Department should ignore petitioner's suggestion.

Chen Hao Xiamen further argues that it could not have provided product-specific yields. It provided yields on a production batch basis, which it claims is the most specific data available related to material consumption. Chen Hao Xiamen further argues that it should not be punished for failing to provide data that it does not have.

DOC Position. With regard to consumption, we agree with Chen Hao Xiamen. Our verification results confirm the reliability of Chen Hao Xiamen's data. Accordingly, we have used Chen Hao Xiamen's reported consumption figures, as corrected through verification, in our analysis.

Moreover, although the Department prefers product-specific yield information, where such information does not exist, the Department will use the most specific information available. In this instance, Chen Hao Xiamen reported yields on a batch specific basis. Further, we have no evidence on the record that the Chen Hao Xiamen's methodology is distortive of its experience during the POI. Accordingly, we have rejected petitioner's arguments and accepted Chen Hao Xiamen's reported yield data, as verified by the Department.

Comment 24: Selling Expense Adjustment

Petitioner contends that, for comparisons of EP to NV based on Taiwan sales or Taiwan CV, EP and NV must be adjusted for selling expenses. Petitioner argues that the Department erred in not adjusting for U.S. selling expenses when the basis for NV was Chen Hao Taiwan's price or CV in comparing EP to NV for Chen Hao Xiamen. Although Chen Hao Xiamen did not provide U.S. selling expense information, according to petitioner, credit expense can be calculated from the verification exhibits.

Chen Hao argues that the Department should not adjust Chen Hao Xiamen's EP when the basis for NV is Chen Hao Taiwan's price or CV. Chen Hao further argues that imputing selling expenses where the Department never provided respondents with an opportunity to present that information would be arbitrary and unfair.

DOC Position. We agree with petitioner that for comparisons of EP to NV based on Taiwan sales or Taiwan CV, EP and NV must be adjusted for selling expenses. See ''B. Multinational Corporation Provision'' section of this notice.

Comment 25: Product Weights

Petitioner asserts that because verification showed that for six products sampled, the weight verified was greater than the weight reported, Chen Hao Xiamen thus systematically under-reported its product weights. Petitioner contends that to correct the data, the Department should increase the reported product weights by two percent, which is the degree of under reporting identified for one of the products examined at verification.

Chen Hao Xiamen claims that it did not systematically under report its product weights, as claimed by petitioner. Chen Hao Xiamen argues that, given that products produced from the same production batch may have different weights due to varying amounts of melamine input powder, this degree of discrepancy between the reported and verified weights is well within an acceptable tolerance of reliability.

DOC Position. We agree with Chen Hao Xiamen. We note that the weighing of the subject merchandise is inherently somewhat imprecise, and that the verified weights were within acceptable limits.

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to convert foreign currencies based on the dollar exchange rate in effect on the date of sale of the subject merchandise, except if it is established that a currency transaction on forward markets is directly linked to an export sale. When a company demonstrates that a sale on forward markets is directly linked to a particular export sale in order to minimize its exposure to exchange rate losses, the Department will use the rate of exchange in the forward currency sale agreement.

Section 773A(a) also directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, *see Policy Bulletin 96–1: Currency*

Conversions (61 FR 9434, March 8, 1996).) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the New Taiwan dollar did not undergo a sustained movement, nor were there currency fluctuations during the POI.

Continuation of Suspension of Liquidation

For Chen Hao Xiamen, Gin Harvest, and Sam Choan, we calculated a zero or *de minimis* margin. Consistent with *Pencils*, merchandise that is sold by these producers but manufactured by other producers will be subject to the order, if issued. Entries of such merchandise will be subject to the ''PRC-wide'' rate.

In accordance with section 733(d)(1) of the Act and 735(c)(1), we are directing the Customs Service to continue to suspend liquidation of all entries of MIDPS from the PRC, that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the Federal Register, except for entries of merchandise manufactured by those producers receiving a zero or *de minimis* margin. The Customs Service to require a cash deposit or posting of a bond equal to the estimated amount by which the NV exceeds the EP as indicated in the chart below. This suspension of liquidation will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Chen Hao Xiamen	0.97 (de minimis).
Gin Harvest	0.47 (de minimis).
Sam Choan	0.04 (de minimis).
Tar Hong Xiamen	2.74.
PRC-Wide Rate	7.06.

The PRC-Wide rate applies to all entries of subject merchandise except for entries from exporters/factories that are identified individually above.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: January 6, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

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[A–560–801]

Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or David J. Goldberger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4194 or (202) 482–4136, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act (''URAA'').

Final Determination

We determine that melamine institutional dinnerware products (''MIDPs'') from Indonesia are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act.

Case History

Since the preliminary determination in this investigation (*Notice of Preliminary Determination and Postponement of Final Determination: Melamine Institutional Dinnerware Products from Indonesia* (61 FR 43333, August 22, 1996), the following events have occurred:

In September 1996, we verified the questionnaire responses of P. T. Multi Raya Indah Abadi (Multiraya). On November 22, 1996, the Department requested Multiraya to submit new computer tapes to include data corrections identified through verification. This information was submitted on December 5, 1996.

Petitioner, the American Melamine Institutional Tableware Association (''AMITA'), and Multiraya submitted case briefs on November 26, 1996, and rebuttal briefs on December 3, 1996. The Department held a public hearing for this investigation on December 5, 1996.

Scope of Investigation

This investigation covers all items of dinnerware (*e.g.*, plates, cups, saucers, bowls, creamers, gravy boats, serving dishes, platters, and trays) that contain at least 50 percent melamine by weight and have a minimum wall thickness of 0.08 inch. This merchandise is classifiable under subheadings 3924.10.20, 3924.10.30, and 3924.10.50 of the Harmonized Tariff Schedule of the United States (''HTSUS'). Excluded from the scope of investigation are flatware products (*e.g.*, knives, forks, and spoons).

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (''POI'') is January 1, 1995, through December 31, 1995.

Fair Value Comparisons

A. P.T. Mayer Crocodile

We did not receive a response to our questionnaire from P.T. Mayer Crocodile, an exporter of the subject merchandise during the POI. Because P.T. Mayer Crocodile failed to submit information that the Department specifically requested, we must base our determination for that company on the facts available in accordance with section 776 of the Act. Section 776(b) provides that an adverse inference may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with a request for information. Because P.T. Mayer Crocodile has failed to respond, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted.

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. *See* The

Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess at 870 (1994) (''SAA'').

In this proceeding, we considered the petition as the most appropriate information on the record to form the basis for a dumping calculation for this uncooperative respondent. In accordance with section 776(c) of the Act, we attempted to corroborate the data contained in the petition. Specifically, the petitioner based both the export price and normal value in the petition on Multiraya's ex-factory prices for nine-inch plates obtained from a market research report. We compared the petitioner's submitted price data to actual prices reported in Multiraya's questionnaire response for products of the same size and shape. We found the Multiraya normal value data from the market research report appears to be consistent with the normal value data reported in Multiraya's questionnaire response. Thus, we consider the normal value data in the petition to have been corroborated and will therefore utilize such data in our margin calculation for P.T. Mayer Crocodile.

We did not, however, consider the export price from the petition to be corroborated because the Multiraya export price data in the market research report was substantially different from the data reported by Multiraya in its questionnaire response which was confirmed through verification. Therefore, we have not used the export price in the petition. In selecting from among the facts otherwise available with regard to export price, we have used the lowest ex-factory export price reported by Multiraya for a nine-inch plate. We found this information to be sufficiently adverse to effectuate the purpose of the statute, and we also note that the number of EP sales to select from was small. We compared that export price to the ex-factory normal value used in the petition in order to calculate a margin for P. T. Mayer Crocodile.

B. Multiraya

To determine whether Multiraya's sales of the subject merchandise to the United States were made at less than fair value, we compared the Export Price (''EP'') to the Normal Value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice. As set forth in section 773(a)(1)(B)(i) of the Act, we calculated NV based on sales at the same level of trade as the U.S. sale. In accordance with section 777A(d)(1)(A)(i), we compared the weighted-average EP to the weighted-average NV during the POI. In determining averaging groups for comparison purposes, we considered the appropriateness of such factors as physical characteristics.

(i) Physical Characteristics

In accordance with section 771(16) of the Act, we considered all products covered by the description in the ''*Scope of Investigation*'' section of this notice, produced in Indonesia by Multiraya and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (listed in order of preference): shape type (*i.e.*, flat, *e.g.*, plates, trays, saucers, etc.; or container, *e.g.*, bowls, cups, etc.), specific shape, diameter (where applicable), length (where applicable), capacity (where applicable), thickness, design (*i.e.*, whether or not a design is stamped into the piece), and glazing (*i.e.*, where a design is present, whether or not it is also glazed).

(ii) Level of Trade

Multiraya did not claim a difference in level of trade. Our findings at verification confirmed that Multiraya performed essentially the same selling activities for each reported home market and U.S. marketing stage. Accordingly, we find that no level of trade differences exists between any sales in either the home market or U.S. market. Therefore, all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) is unwarranted.

Export Price

In accordance with subsections 772(a) and (c) of the Act, we calculated EP for Multiraya where the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and use of constructed export price (''CEP'') was not otherwise warranted based on the facts of record (*See* Comment 17).

Normal Value

Cost of Production Analysis

As discussed in the preliminary determination, based on the petitioner's allegations, the Department found reasonable grounds to believe or suspect that Multiraya made sales in the home market at prices below the cost of producing the subject merchandise. As a result, the Department initiated an investigation to determine whether Multiraya made home market sales during the POI at prices below the cost of production (COP) within the meaning of section 773(b) of the Act.

Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of Multiraya's reported cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses (''SG&A'') and packing costs in accordance with section 773(b)(3) of the Act.

We adjusted Multiraya's raw material costs to include the change in the work-in-process inventory (*see* Comment 4).

B. Test of Home Market Prices

We used Multiraya's adjusted weighted-average COP for the POI. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at below-cost prices within an extended period of time, in substantial quantities, and not at prices which permit recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses. As in our preliminary determination, we did not deduct indirect selling expenses from the home market price because these expenses were included in the G&A portion of COP. We recalculated the total material costs by including work-in-process (*see* Comment 4).

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's home market sales for a model are at prices less than the COP, we do not disregard any below-cost sales of that model because we determine that the below-cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of a respondent's home market sales of a given model during the POI are at prices less than COP, we disregard the below-cost sales because they are (1) made within an extended period of time in substantial quantities in accordance with sections 773(b)(2) (B) and (C) of the Act, and (2) based on comparisons of prices to weighted-average COPs for the POI,

were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section

773(b)(2)(D) of the Act. The results of our cost test for Multiraya indicated that for certain home market models less than 20 percent of the sales of the model were at prices below COP. We therefore retained all sales of the model in our analysis and used them as the basis for determining NV. Our cost test for Multiraya also indicated that within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act), for certain home market models more than 20 percent of the home market sales were sold at prices below COP. In accordance with section 773(b)(1) of the Act, we therefore excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

D. Calculation of Constructed Value (CV)

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Multiraya's cost of materials, fabrication, selling, general, and administrative expenses (''SG&A''), and profit, plus U.S. packing costs as reported in the U.S. sales database. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. We calculated Multiraya's CV based on the methodology described above for the calculation of COP.

Price to Price Comparisons

Where we compared CV to export prices, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses (where appropriate) in accordance with section 773(a)(8) of the Act. We calculated price-based normal value using the same methodology used in the preliminary determination, with the following exceptions: (1) We disallowed Multiraya's warranty claim as a circumstance of sale warranty claim adjustment (*see,* Comment 8) and 2) We recalculated home market credit to reflect verification findings (*see* Comment 7).

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks, *see Change in Policy Regarding Currency Conversions,* 61 FR 9434 (March 8, 1996). Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Indonesian rupiah did not undergo a sustained movement, nor were there currency fluctuations during the POI.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Multiraya for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

Interested Party Comments

Comment 1: Scope of Investigation

Respondents argue that the scope of this investigation should be revised to exclude melamine dinnerware that exceeds a thickness of 0.08 inch and is intended for retail markets when such products are accompanied by appropriate certifications presented upon importation to the United States.

Petitioner objects to respondents'' scope revision proposal because, it believes, it has no legal or factual basis and would result in an order that would be very difficult to administer. Petitioner further contends that antidumping orders based on importer certifications of use, such as the proposal advocated by respondents, are difficult to administer and should be avoided where possible. Petitioner argues that if respondents want to produce merchandise for the retail market that presents no scope issue, respondents can produce merchandise of a thinner wall thickness that falls outside of the scope.

DOC Position

We agree with petitioner. Petitioner has specifically identified which merchandise is to be covered by this proceeding, and the scope reflects petitioner's definition. As we stated in *Final Determination of Sales at Less Than Fair Value: Carbon and Alloy Steel Wire Rod from Brazil* (59 FR 5984, February 9, 1994), [p]etitioners'' scope definition is afforded great weight because petitioners can best determine from what products they require relief. The Department generally does not alter the petitioner's scope definition except to clarify ambiguities in the language or address administrability problems. These circumstances are not present here.

The petitioner has used a thickness of more than 0.08 inch, not end use, to define melamine ''institutional'' dinnerware. The physical description in the petition is clear, administrable and not overly broad. Thus, we agree with petitioner that there is no basis for redefining the scope based on intended channel of distribution or end use, as respondents propose.

Comment 2: Alleged Underreporting of U.S. Sales

Petitioner states that information on Multiraya's U.S. invoices reviewed at verification demonstrates that Multiraya seriously underreported its U.S. sales because the data taken from the invoices establishes that the product weight reported by Multiraya is less than that found on the actual invoices. Further, petitioner claims Multiraya compounded its underreporting of U.S sales by not providing the Department with an explanation during the verification to validate the weight discrepancy. Therefore, petitioner asserts the Department should rely on adverse facts available for the final margin calculation for Multiraya. However, if the Department were to determine that facts available should not be applied to Multiraya, petitioner suggests that at a minimum, the Department should apply partial facts available and treat the unreported quantities as ''free merchandise.''

Multiraya argues that it did not underreport any U.S. sales, and that petitioner's arguments claiming Multiraya has underreported its U.S. sales is based on petitioner's misunderstanding of the information on the record. Multiraya adds that the

Department verified that it did not ship anything to the U.S. other than the subject merchandise in the quantities listed. Therefore, Multiraya argues that petitioner's claim that it has ''ghost'' or ''free'' merchandise is false. Finally, Multiraya argues that the differences in weight do not constitute underreporting of its sales to the United States.

DOC Position

We verified that Multiraya sold subject merchandise by the number of pieces and not by weight, and that Multiraya keeps track of its sales by the number of pieces sold. Multiraya's sales reporting was based on the quantity sold, not on the weight of the merchandise. For purposes of responding to the Department's questionnaire, Multiraya reported actual weights, which we verified. Thus, the discrepancies in the weight actually reported to the Department and the ''standard'' weights which were listed on the U.S. invoices for purposes of duty drawback payments to the Indonesian government are not evidence of any misrepresentation on Multiraya's part. Therefore, we disagree with petitioner's allegation that, since the standard weight and the actual weight differed, Multiraya actually shipped additional ''free merchandise'' to the U.S. Accordingly, we have used Multiraya's response for our final determination.

Comment 3: Product Characteristics

Petitioner states that, based on the Department's verification of Multiraya's sales data, Multiraya's reporting of product characteristics (*i.e.*, shape, capacity, weight and thickness) is replete with errors. As a result, petitioner argues that the errors make it impossible for the Department to accurately use home market sales data to identify the proper comparisons to U.S. sales. Therefore, petitioner claims that the Department should rely on the facts available for Multiraya's final margin calculation.

Multiraya argues that, although certain product characteristics were misreported for some products (*i.e.*, capacity and thickness), the Department did not find any discrepancies in more determinative characteristics such as length, width, and diameter. Multiraya argues that such misreporting will have an insignificant effect on model matching.

DOC Position

We agree with petitioner's allegation that Multiraya misreported certain product characteristics such as the weight and thickness of the product. However, we have concluded that these errors are minor with regard to both the product matching criteria and the extent of the incorrect reporting. We have corrected those errors accordingly. We determined that Multiraya misreported the thickness of some of its products because of the point of measurement used for reporting to the Department. We did not specify in the Department's questionnaire where the appropriate point of measurement would be, hence there were differences between the Department's measurement at verification and Multiraya's measurement. We have also determined that the more determinative product characteristics were, in fact, reported correctly (*see* Memorandum from MIDP Team to Louis Apple, Acting Office Director, August 12, 1996). Therefore, we have rejected petitioner's argument that facts available are required as a result of the differences in Multiraya product matching characteristics.

Comment 4: Work-in-Process Inventory (WIP)

Petitioner claims that Multiraya underreported its material costs by excluding the costs of WIP inventory and points to Multiraya's own submission indicating that WIP decreased from the beginning of the year to year-end. Petitioner states that Multiraya reported only those inputs withdrawn from raw material inventory during the POI, but that the change in Multiraya's WIP inventory should also have been included as part of the material costs. Since opening WIP is much greater than closing WIP, petitioner claims that Multiraya's exclusion of the change in WIP significantly distorted the costs. As a result of Multiraya's deficient response, and the inability of the Department to verify the data completely, petitioner claims that the Department should apply total facts available for Multiraya's final margin calculation.

Multiraya argues that the Department performed numerous tests on its production costs at verification and found no information to indicate that Multiraya had under-reported its costs due to changes in WIP or any other factor. Moreover, Multiraya argues that WIP is irrelevant unless raw material costs fluctuate during the year, and the Department verified that Multiraya's cost of raw materials did not fluctuate during that time period.

DOC Position

We agree with petitioner that Multiraya's reported production costs are understated; however, we disagree with petitioner's suggestion that the remedy for this error is to apply total facts available. Multiraya reported its per-unit costs based on the cost incurred during the period (without considering the WIP balances), allocated over the total amount of finished goods produced. Because Multiraya failed to include the change in WIP (which represents the costs of semi-finished goods that were completed during the period) the reported costs are understated. We have corrected for this understatement by allocating the net change in WIP balances to all of the goods produced. This allocation was accomplished by determining the percentage relationship between the change in WIP and the reported material cost.

Further, we disagree with Multiraya's assertion that the change in WIP is only significant when the price of raw materials is fluctuating, because the change in WIP represents costs incurred to produce the units recorded as finished goods in this period, thus the amount can be significant.

Comment 5: Transaction and Product-Specific Yields

Petitioner contends that verification revealed that Multiraya could have calculated product-specific yields for home market sales based on stock cards and sales invoices. By Multiraya maintaining its claim that it could not calculate more specific yields and thus using an average yield, it has in effect minimized its dumping margin. Consequently, petitioner argues that this is another reason for the Department should apply total facts available.

Multiraya states that it did not maintain production records in its normal course of business that would have enabled it to calculate product-specific yields. Multiraya contends that petitioner has misunderstood Multiraya's accounting system. Multiraya explains that, because it tracks its consumption of imported melamine powder for purposes of supporting duty drawback claims with the Indonesian government, it can link the purchase of imported melamine powder specifically to the production of melamine dinnerware sold for export. In so far as, Multiraya does not receive a duty drawback refund for domestic melamine, it had no reason to track yields for products that use domestic melamine powder. Thus, Multiraya states that it cannot link the purchase of domestic melamine powder to specific production and sale of melamine dinnerware products. As a result, Multiraya asserts that would be unable to calculate product-specific or batch-specific production yields for products

manufactured from domestic melamine powder. Accordingly, Multiraya contends that it is unfair for the Department to apply facts available for failure to provide information on product-specific yields that cannot be derived from its records.

DOC Position

The Department's preference is to use product-specific cost data, which includes product specific yield results, for calculating COP and CV. The Department uses the most specific and reasonable allocation methodology possible given the available data (*see Final Determination at Sales Less Than Fair Value: Welded Stainless Steel Pipe From Malaysia*, 59 FR 4023, 4027, January 28, 1994). In this instance, Multiraya reported its costs based on overall yield information because it claimed that its records do not permit it to calculate cost data on a more specific basis. Our verification revealed nothing to contradict Multiraya's claim that it does not maintain product-specific yield data in its normal course of business. The accounting records petitioner identified could arguably be used to calculate an average yield for each specific order. Nevertheless, compiling and aggregating this data would not provide product-specific yield information as petitioner claims. Instead, this calculation would result in average yield data, which would be no more specific than the information provided by Multiraya. Accordingly, we have accepted Multiraya's average yield rate calculation which we tested at verification.

Comment 6: Land Rental

Petitioner claims that Multiraya failed to disclose until verification that it leased land from an affiliated party for use in its dinnerware business, and that Multiraya was unable to demonstrate the arm's length pricing of the land rent. Citing Indonesian financial statistics for support its contention that the rent expense is too low, petitioner argues that this lease amount must be adjusted to reflect the true cost of Multiraya's lease and cites

Multiraya argues that rental payments as affiliated party transactions are merely another form of capital contribution by shareholders and the Department's practice is to ignore such intracompany transfers, regardless of whether they relate to sales or production. Multiraya explains that the land was owned by a company official or ''shareholder'' who contributed the land to Multiraya for a fixed payment. Thus, according to Multiraya, the rent the shareholder receives is equivalent to a dividend or profit sharing amount.

DOC Position

We verified that Multiraya reported the land rental expense that was reflected in its financial statements. We analyzed the amount of the recorded expense in relation to the total costs and the overhead expense and noted that the reported amount is immaterial. Further the effect of adjusting the recorded amount by the inflation rate experienced from 1991 until the POI, as requested by the petitioner, is also immaterial as petitioner has not shown any substantial link between inflation in Indonesia and the land rental costs. Accordingly, we have accepted the land rental amount as the figure recorded in the financial statement.

Comment 7: Home Market Credit Expenses

Petitioner states that Multiraya overstated its home market credit expenses for most reported transactions. Petitioner argues that the Department should either recalculate or disallow entirely the claimed credit expense.

Multiraya argues that the overstatement of home market credit expense is directly related to a computer programming error and should not warrant applying facts available. Multiraya requests that the Department use verified information for its final margin calculation.

DOC Position

We agree with petitioner that Multiraya's home market credit expenses were overstated, and we also agree that it is appropriate to recalculate these expenses to correct the error. At verification, the Department found that, aside from a computer error, the reported credit expenses were accurate. This computer error does not warrant the application of facts available. In response to the Department's request, Multiraya has resubmitted corrected payment dates. Hence, we have recalculated the home market credit expense using the corrected information submitted by Multiraya.

Comment 8: Home Market Warranty Expense

Petitioner claims that Multiraya improperly allocated home market warranty expenses over all sales, instead of on a more specific basis. According to petitioner, verification demonstrated that Multiraya could have calculated this expense on a customer-specific basis. Accordingly, petitioner contends the Department should treat the claimed warranty amount as an indirect selling expense rather than a direct selling expense.

Multiraya argues that the Department's practice with respect to warranty expenses does not require a respondent to report a sale-by-sale breakdown of direct warranty expenses. Contrary to petitioner's claim, Multiraya argues that verification proved its warranty expenses are directly related to the subject merchandise because the expenses were incurred for melamine institutional dinnerware products. In addition, Multiraya argues that given its accounting records, an overall allocation methodology was the only feasible method available for it to calculate its warranty expense. Multiraya argues that a customer-specific methodology would not provide any greater accuracy than an overall warranty expense methodology.

DOC Position

It is the burden of the respondent to demonstrate it is entitled to an adjustment under the Act. At verification, Multiraya was unable to provide any documentation to support its claim for warranty expenses. Rather, the claimed warranty expenses had been derived from Multiraya's best estimate and not based on actual results. Because Multiraya was unable to meet its burden, we are calculating normal value without adjustment for home market warranty expenses.

Comment 9: Home Market Inland Freight

Petitioner claims that Multiraya's reported home market freight expense claim could not be verified and contained many discrepancies. Specifically that Multiraya's reported freight expenses was deficient because it did not reflect: (1) Use of diesel fuel, rather than gasoline as reported, (2) lack of documentation to support an allocation methodology of how it determined the freight per transaction, and (3) inclusion of non subject-merchandise.

Multiraya argues that its reported home market freight expenses were verified. As such, Multiraya states that it has reported its home market inland freight expense to the best of its ability, and recommends that the Department not apply facts available to its final margin calculation.

DOC Position

The Department's preference is that, wherever possible, freight adjustments should be reported on a sale-by-sale basis, rather than an overall basis (*see, e.g., Final Results of Antidumping Duty Administrative Review: Replacement*

Parts for Self-Propelled Bituminous Paving Equipment from Canada 56 FR 47451, 47455, September 19, 1991). If a respondent does not maintain its records to enable freight expense reporting at this level, then our preference is to apply an allocation methodology at the most specific level permitted by a respondent's records, unless a respondent can demonstrate that doing so is overly burdensome or that its alternative methodology is representative and non-distortive of transaction-specific sales. Multiraya allocated all home market freight by weight over all home market sales inclusive of subject and non-subject merchandise. Verification did not contradict Multiraya's claim that it is unable to report freight expenses on a transaction-specific basis. The non-subject merchandise included in the freight allocation is all melamine products not covered by the scope of this investigation. In so far as we find that expense allocation of melamine product weight, it is a reasonable approach to account for the inclusion of non-subject merchandise in the reported freight expenses. We have accepted a Multiraya's methodology as representative and non-distortive of transaction-specific sales information (*see Final Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Korea,* 60 FR 33561, June 28, 1995).

Comment 10: Understating of U.S. Credit Expenses

Petitioner claims that Multiraya improperly calculated reported credit on U.S. sales by reporting shipment date as the date of ocean shipment, rather than as the date of factory shipment. To correct this error, petitioner argues that the Department should recalculate credit using invoice date as shipment date.

Multiraya responds that it correctly reported the shipment date for this expense based on the date from the bill of lading because it is on that date that the merchandise left the factory.

DOC Position

We have accepted Multiraya's reported credit expense, because at verification we found no evidence to indicate any differences between the date of factory shipment and the bill of lading date, *i.e.,* shipment date.

Comment 11: U.S. Dollar Interest Rate vs Rupiah Interest Rate

Petitioner states that, although Multiraya invoices its U.S. customer in U.S. dollars, it ultimately receives payment in Indonesian rupiahs because the bank converts the customer's payment. As a result, petitioner claims that Multiraya's opportunity cost is incurred in rupiah, not dollars. Therefore, petitioner argues that the Department should apply a rupiah interest rate to calculate U.S. credit expenses.

Multiraya argues that the Department properly applied a U.S. dollar rate to the calculation of U.S. credit expenses. Multiraya states that the fact that it ultimately receives payment for its dollar-denominated sales in rupiahs is not determinative. However, Multiraya states that it invoices its customers in U.S. dollars, and its customers pay in U.S. dollars via letter of credit. Therefore, its opportunity costs are properly associated with U.S. dollars.

DOC Position

We agree with Multiraya's claim that based on the facts in this investigation the opportunity cost experienced by Multiraya was in U.S. dollars. The Department's policy is to calculate imputed credit costs using a weighted average short term borrowing which reflects the currency in which the sale was invoiced. Consistent with the Department's practice we have determined no credit cost adjustments are warranted. (*See, e.g., Final Determination at Sales Less Than Fair Value: Pasta from Turkey,* 61 FR 30309, 30324 (June 14, 1996)).

Comment 12: Duty Drawback Claim

Petitioner claims that Multiraya improperly included as an offset to costs, drawbacks on duties paid prior to the POI. Petitioner argues that the Department should deny Multiraya's duty drawback claim entirely. Petitioner argues that Multiraya's duty amount should be lowered because: (1) Multiraya did not include duties associated with opening WIP, (2) Multiraya recorded material costs inclusive of duties, and (3) Multiraya's WIP that was incorporated in materials was not included in reported material costs. Finally, petitioner states that Multiraya did not demonstrate a tie between the quantity of imported melamine powder on which the duty was paid and the quantity of exports of imported melamine upon which the drawback was received. For the above-mentioned reasons, petitioner argues that the Department should reject Multiraya's claim for a duty drawback in its final margin calculation.

Multiraya argues that it reported its duty drawback refund based on duties paid before the POI in an effort to reflect actual refunds received during the POI. Further, Multiraya argues that petitioner's claim with regard to unreported duty on the change in WIP is irrelevant to the reported duty drawback amount because the Department requires a respondent to report duty drawback claims on the same basis as it receives duty drawback refunds. Multiraya states that the absence of WIP costs and quantities from its calculation of reported costs is not beneficial to its final margin calculation. Multiraya states that, at verification, the Department confirmed that all imported melamine was indeed used in exported melamine production during the POI.

DOC Position

As discussed in Comment 4, we believe that the change in WIP should be included in the total material costs, and we have adjusted the total cost of melamine production to take this into account. However, we do not agree with petitioner that Multiraya has not demonstrated that it is entitled to a duty drawback. We verified Multiraya's duty drawback process, its method of tracking total duties paid and weights and quantities of production and determined it was appropriate. Accordingly, there is no basis to deny Multiraya's duty drawback claim (*See* Verification Report at page 11 and Cost Verification Exhibit 109).

Comment 13: Exclusion of Excise Tax From Material Costs

Petitioner argues that Multiraya's claim of an income tax credit for excise taxes paid on exported melamine products is incorrect and should not have been reported as duty drawback because said excise tax is not supported by a link between imports and exports. In addition, petitioner states that Cost Verification Exhibit 111 indicates that the income tax is allocated over a large number of products, including domestic products. Petitioner claims that there is no information on the record to suggest that this tax credit is directly linked to export or export quantities exclusively. Since the burden of proof to support its claim is with Multiraya, petitioner argues the Department must deny Multiraya's duty drawback claim for an income tax credit for paid excise taxes.

Multiraya argues that Cost Verification Exhibit 109 clearly details that import duties and value added tax paid on imported melamine powder were eventually recovered via a tax credit on exported melamine dinnerware products. Thus, Multiraya argues, the Department should accept the duty drawback claim.

DOC Position

We agree with Multiraya. We verified that Multiraya's excise tax was imposed on imported melamine powder (which was used to produce MIDP for export) and was credited through the income tax return upon export of the finished product. Accordingly, the claimed drawback amount was properly classified (*see* Cost Verification Exhibit 111).

Comment 14: Foreign Inland Freight

Petitioner claims that Multiraya improperly reported a U.S. sale without including the foreign inland freight expense incurred on that sale based on the Department's verification information. Because of this exclusion petitioner contends that the Department should apply facts available and assign the highest amount of foreign inland freight to this sale in the calculation of Multiraya's final margin.

Multiraya argues that it properly reported foreign inland freight for all its U.S. sales. Multiraya contends that foreign inland freight should not have been applied to the U.S. sale at issue because it in fact was not shipped via ground transportation.

DOC Position

We agree with Multiraya. We verified that foreign inland freight was properly applied to U.S. sales and, for the sale in question, we find that foreign inland freight expenses were not incurred (*see* Verification Exhibit 13 and 19).

Comment 15: U.S. Warranty Expenses

Petitioner contends that Multiraya failed to report warranty expenses incurred on U.S. sales. Petitioner states that the Department's verification of sales documents and customer files revealed that although Multiraya did not have a formal warranty policy, it allowed customers to return unsatisfactory merchandise, which is the equivalent of a warranty expense. Consequently, petitioner contends that the Department should apply facts available to Multiraya's final margin calculation.

Multiraya responds that it did not incur any warranty expenses on U.S. sales. Multiraya states that the Department verified that it did not grant any warranty-related claims during the POI. In addition, Multiraya contends that the Department's reconciliation of U.S. sales to Multiraya's financial statements at verification proved that its U.S. customer did not receive any credits toward its payment to Multiraya.

DOC Position

Although the Department's verification report indicates that Multiraya's customers are able to return unsatisfactory merchandise, at verification we did not find any evidence to suggest that Multiraya is contractually obligated to provide credit or any other redress for unsatisfactory merchandise. Therefore we do not consider this informal return policy to constitute a warranty obligation associated with Multiraya's sales. Accordingly we determined that Multiraya does not incur warranty expenses and application of facts available is not warranted.

Comment 16: U.S. Containerization Costs

Petitioner states that Multiraya failed to report containerization expenses on U.S. sales. Therefore, petitioner contends that the Department should estimate the expense to be equal to labor costs for packing or use the public record figure for Indonesian containerization and include this amount in the final determination margin calculations.

Multiraya argues that the costs of containerization are included in Multiraya's reported expenses.

DOC Position

We agree with Multiraya. We verified that costs associated with containerization are included in Multiraya's packing expenses. (*See* Verification Exhibit 17).

Comment 17: U.S. Sales Treated as Affiliated Party Sales

Petitioner claims that information on the record indicates a close supplier relationship between Multiraya and its sole U.S. customer. Consequently, petitioner states Multiraya's failure to provide all the information to the Department relevant to its affiliation is equivalent to Multiraya submitting a seriously deficient response. Further, petitioner states that the Department verified all U.S. sales are made to one customer and would fall within the definition of affiliated party set forth in Section 771(33) of the Tariff Act. In addition, petitioner argues that there is clearly an exclusive seller/purchaser relationship with respect to shipments of the subject merchandise from Indonesia to the United States. As a result of Multiraya's failure to provide the Department with the information required to calculate CEP for its U.S. sales, petitioner suggests that the Department apply facts available, as set forth in the petition, to the final margin calculation for Multiraya.

Multiraya states there is not an affiliation with its sole U.S. customer, as neither has the authority or is in the position to exercise restraint or discretion over the other. Multiraya states that Multiraya and its customer do not have an exclusive business relationship, as Multiraya is not the only supplier of the subject merchandise for the U.S. customer. Multiraya states that the Department reviewed supporting documentation that demonstrated that Multiraya, in fact, has sought new business and other customers. In addition, Multiraya states that there is no corporate relationship between it and its U.S. customer. Multiraya states that the Department reviewed its corporate documentation and did not find any reference to the U.S. customer's owners, directors, or managers.

DOC Position

We disagree that Multiraya's U.S. sales should be classified as CEP sales because we do not find that the evidence establishes that the sole U.S. importer and Multiraya are affiliated parties. Section 771(33)(G) of the Act provides, *inter alia,* that parties will be considered affiliated when one controls the other. A person controls another person if the person is ''legally or operationally in a position to exercise restraint or direction over another person.'' SAA at 838. The SAA further states that a company may be in a position to exercise restraint or direction through, among other things, ''close supplier relationships in which the supplier or buyer becomes reliant upon the other.'' *Id.*

Pursuant to section 771(33) of the Act, we reviewed Multiraya's relationship with its U.S. importer. The evidence indicates that there is no corporate or family relationship between the two companies. The Department requested Multiraya to provide evidence to support its assertion that it was not under the control of its sole U.S. customer and it freely negotiated its U.S. prices for the subject merchandise. Multiraya submitted written documentation between Multiraya and this U.S. customer which demonstrated that negotiations occurred between Multiraya and its sole U.S. customer regarding melamine product prices, and that Multiraya was not controlled by the customer in setting the price of the subject merchandise (*See* Multiraya's June 7, 1996, Supplemental Questionnaire Response at Exhibit 1 and 2). We verified that the negotiated prices reflected the prices reported in Multiraya U.S. sales listing. The evidence on the record also

demonstrates that Multiraya does not have an exclusive supplier relationship with its U.S. customer as it attempted to solicit business from other U.S. companies (*See* Multiraya's July 15, 1996, Supplemental Questionnaire Response at Exhibit 3). Therefore, we have determined that the evidence on the record supports the claim that Multiraya is not affiliated with its U.S. customer.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of MIDPs that are entered, or withdrawn from warehouse, for consumption on or after August 22, 1996, the date of publication of our preliminary determination in the Federal Register. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. This suspension of liquidation will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage
P. T. Mayer Crocodile	12.90
P. T. Multi Raya Indah Abah	8.10
All Others	8.10

Pursuant to section 733(d)(1)(A) and section 735(c)(5) of the Act, the Department has not included zero, *de minimis* weighted-average dumping margins, and margins determined entirely under section 776 of the Act, in the calculation of the ''all others'' rate.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: January 6, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–753 Filed 1–10–97; 8:45 am]

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[A–583–825]

Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or David J. Goldberger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4194, or (202) 482–4136, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA'').

Final Determination

We determine that melamine institutional dinnerware products (''MIDPs'') from Taiwan are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act.

Case History

Since the preliminary determination in this investigation (*Notice of Preliminary Determination and Postponement of Final Determination: Melamine Institutional Dinnerware Products from Taiwan* (61 FR 43341, August 22, 1996)), the following events have occurred:

In September and October 1996, we verified the questionnaire responses of respondents Yu Cheer Industrial Co., Ltd. (Yu Cheer) and Chen Hao Plastic Industrial Co., Ltd. (Chen Hao Taiwan). On November 23, 1996, the Department requested Chen Hao Taiwan to submit new computer tapes to include data corrections identified through verification. This information was submitted on December 5, 1996.

Petitioner, the American Melamine Institutional Tableware Association (''AMITA''), and respondents submitted case briefs on November 27, 1996, and rebuttal briefs on December 3, 1996. The Department held a public hearing for this investigation on December 5, 1996.

Scope of Investigation

This investigation covers all items of dinnerware (*e.g.*, plates, cups, saucers, bowls, creamers, gravy boats, serving dishes, platters, and trays) that contain at least 50 percent melamine by weight and have a minimum wall thickness of 0.08 inch. This merchandise is classifiable under subheadings 3924.10.20, 3924.10.30, and 3924.10.50 of the Harmonized Tariff Schedule of the United States (HTSUS). Excluded from the scope of investigation are flatware products (*e.g.*, knives, forks, and spoons).

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The POI is January 1, 1995, through December 31, 1995.

Facts Available

IKEA and Gallant

We did not receive a response to our questionnaire from either IKEA Trading Far East Ltd. (IKEA) or Gallant Chemical Corporation (Gallant). Section 776(a)(2) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner and in the form requested, significantly impedes a proceeding, or provides such information but the information cannot be verified, the Department shall use the facts otherwise available in reaching the applicable determination. Because IKEA and Gallant failed to submit the information that the Department specifically requested, we must base our determinations for those companies on the facts available.

Section 776(b) of the Act provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with a request for information. IKEA's and Gallant's failure to respond to our questionnaire demonstrates that IKEA and Gallant have failed to cooperate to the best of their abilities in this investigation. Accordingly, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted.

Section 776(c) of the Act provides that where the Department selects from

among the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (hereinafter, the ''SAA''), states that the petition is ''secondary information'' and that ''corroborate'' means to determine that the information used has probative value. *See* SAA at 870.

In this proceeding, we considered the petition as the most appropriate information on the record to form the basis for a dumping calculation for these uncooperative respondents. In accordance with section 776(c) of the Act, we sought to corroborate the data contained in the petition.

The petitioner based its allegation of both normal value and export price in the petition on a market research report which utilized price quotations from a manufacturer/exporter of MIDPs in Taiwan. The petitioner also submitted a published price list of comparable merchandise sold during the POI in Taiwan. The Department has determined that the price list corroborates normal value used in the petition.

The export price in the petition is consistent with export prices reported by responding companies on the record of this investigation. Therefore, we determine that further corroboration of the facts available margin is unnecessary.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Chen Hao Taiwan and Yu Cheer to the United States were made at less than fair value, we compared the Export Price (''EP'') to the Normal Value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice. As set forth in section 773(a)(1)(B)(i) of the Act, we calculated NV based on sales at the same level of trade as the U.S. sale. In accordance with section 777A(d)(1)(A)(i), we compared POI-wide weighted-average EPs to weighted-average NVs. In determining averaging groups for comparison purposes, we considered the appropriateness of such factors as physical characteristics.

(i) Physical Characteristics

In accordance with section 771(16) of the Act, we considered all products covered by the description in the *Scope of Investigation* section, above, produced in Taiwan and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (listed in order of preference): shape type (*i.e.*, flat—*e.g.*, plates, trays, saucers etc.; or container—*e.g.*, bowls, cups, etc.), specific shape, diameter (where applicable), length (where applicable), capacity (where applicable), thickness, design (*i.e.*, whether or not a design is stamped into the piece), and glazing (*i.e.*, where a design is present, whether or not it is also glazed).

(ii) Level of Trade

In the preliminary determination, the Department determined that no difference in level of trade existed between home market and U.S. sales for either Chen Hao Taiwan and Yu Cheer. Our findings at verification confirmed that Chen Hao Taiwan and Yu Cheer performed essentially the same selling activities for each reported home market and U.S. marketing stage. Accordingly, we determine that all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) is unwarranted.

Export Price

We calculated EP, in accordance with subsections 772(a) and (c) of the Act, where the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and where CEP was not otherwise warranted based on the facts of record.

We calculated EP for each respondent based on the same methodology used in the preliminary determination, with the following exceptions:

Chen Hao Taiwan

We added an amount to U.S. sales denominated in U.S. dollars to account for bank and currency conversion charges not included in Chen Hao Taiwan's reporting, based on information developed at verification (*see* Comment 13).

Yu Cheer

We made the following corrections, based on our verification findings:

(a) Revised payment dates for certain U.S. sales, for purposes of calculating imputed credit; (b) Corrected foreign inland freight; (c) revised packing labor expense; and (d) corrected certain packing material expenses.

In order to reflect the corrected payment dates for certain U.S. sales, we recalculated credit for all U.S. sales, using verified shipment and payment dates and Yu Cheer's reported interest rate. Yu Cheer did not provide information to weight-average the different packing material purchase prices observed at verification. Accordingly, we applied the highest price observed at verification for these materials as facts available. This approach was also consistent with Yu Cheer's reporting methodology for some of the packing material expenses.

Normal Value

Cost of Production Analysis

In the preliminary determination, based on the petitioner's allegation, the Department found reasonable grounds to believe or suspect that Chen Hao Taiwan sales in the home market were made at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether Chen Hao Taiwan made home market sales during the POI at prices below their respective cost of production within the meaning of section 773(b) of the Act.

Before making any fair value comparisons, we conducted the cost of production (COP) analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of Chen Hao Taiwan's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses (SG&A) and packing costs in accordance with section 773(b)(3) of the Act.

We adjusted financial expenses to exclude foreign exchange gains (*see* Comment 10), and to include the interest expense associated with loans from affiliated parties (*see* Comment 9). We also adjusted factory overhead to include an amount for pension expenses (*see* Comment 11).

B. Test of Home Market Prices

We used Chen Hao Taiwan's adjusted weighted-average COP for the POI. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and were not at prices which

permit recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses. We did not deduct indirect selling expenses from the home market price because these expenses were included in the G&A portion of COP.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's home market sales for a model are at prices less than the COP, we do not disregard any below-cost sales of that model because we determine that the below-cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of a respondent's home market sales of a given model during the POI are at prices less than COP, we disregard the below-cost sales because they are (1) made within an extended period of time in substantial quantities in accordance with sections 773(b)(2) (B) and (C) of the Act, and (2) based on comparisons of prices to weighted-average COPs for the POI, were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. The results of our cost test for Chen Hao Taiwan indicated that for certain home market models less than 20 percent of the sales of the model were at prices below COP. We therefore retained all sales of the model in our analysis and used them as the basis for determining NV. Our cost test for Chen Hao Taiwan also indicated that within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act), for certain home market models more than 20 percent of the home market sales were sold at prices below COP. In accordance with section 773(b)(1) of the Act, we therefore excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

In this case, we found that some models had no above-cost sales available for matching purposes. Accordingly, export prices that would have been compared to home market prices for these models were instead compared to constructed value (CV).

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of a respondent's cost of materials, fabrication, selling, general, and administrative expenses (''SG&A''), profit and U.S. packing costs as reported in the U.S. sales databases. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by Chen Hao Taiwan in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. Where appropriate, we calculated Chen Hao Taiwan's CV based on the methodology described in the calculation of COP above. We made the same adjustments to Chen Hao Taiwan's reported CV as we described above for COP.

Price to Price Comparisons

Adjustments to Normal Value

We based normal value on the same methodology used in the preliminary determination, with the following exceptions:

Chen Hao Taiwan

For one of several packing materials used by Chen Hao Taiwan, we found a slight discrepancy between the reported consumption and costs, and the verified consumption and costs. This discrepancy, however, affects only a small part of the overall packing material cost and would have an *ad valorem* effect of less than .33 percent. Consistent with 19 CFR 353.59(a), which permits the Department to disregard insignificant adjustments, we have not adjusted the reported packing materials cost in our fair value comparisons for Chen Hao Taiwan.

Yu Cheer

We revised packing labor and certain packing material expenses, based on verification findings. Yu Cheer did not provide information to weight-average the different packing material purchase prices observed at verification. Accordingly, we applied the highest price observed at verification for these materials as facts available. This approach was also consistent with Yu Cheer's reporting methodology for some of the packing material expenses.

Price to CV Comparisons

Where we compared Chen Hao Taiwan's CV to Chen Hao Taiwan's export prices, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses (where appropriate) in accordance with section 773(a)(8) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to convert foreign currencies based on the dollar exchange rate in effect on the date of sale of the subject merchandise, except if it is established that a currency transaction on forward markets is directly linked to an export sale. When a company demonstrates that a sale on forward markets is directly linked to a particular export sale in order to minimize its exposure to exchange rate losses, the Department will use the rate of exchange in the forward currency sale agreement.

Section 773A(a) also directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks, *see Change in Policy Regarding Currency Conversions* 61 FR 9434 (March 8, 1996). Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the New Taiwan dollar did not undergo a sustained movement, nor were there currency fluctuations during the POI.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

Interested Party Comments

Comment 1: Scope of Investigation

Respondents argue that the scope of investigation should be revised to exclude melamine dinnerware that

exceeds a thickness of 0.08 inch and is intended for retail markets when such products are accompanied by appropriate certifications presented upon importation to the United States.

Petitioner objects to respondents' scope revision proposal because, it believes, it has no legal or factual basis and would result in an order that would be very difficult to administer. Petitioner further contends that antidumping orders based on importer certifications of use, such as the proposal advocated by respondents, are difficult to administer and should be avoided where possible. Petitioner argues that if respondents want to produce merchandise for the retail market that presents no scope issue, respondents can produce merchandise of a thinner wall thickness that falls outside of the scope.

DOC Position. We agree with petitioner. Petitioner has specifically identified which merchandise is to be covered by this proceeding, and the scope reflects petitioner's definition. As we stated in *Final Determination of Sales at Less Than Fair Value: Carbon and Alloy Steel Wire Rod from Brazil* (59 FR 5984, February 9, 1994), [p]etitioners' scope definition is afforded great weight because petitioners can best determine from what products they require relief. The Department generally does not alter the petitioner's scope definition except to clarify ambiguities in the language or address administrability problems. These circumstances are not present here.

The petitioner has used a thickness of more than 0.08 inch, not end use, to define melamine ''institutional'' dinnerware. The physical description in the petition is clear, administrable and not overly broad. Thus, we agree with petitioner that there is no basis for redefining the scope based on intended channel of distribution or end use, as respondents propose.

Comment 2: Acceptance of Chen Hao Taiwan Questionnaire Responses

Petitioner argues that the Department should reject Chen Hao Taiwan's questionnaire responses because the extensive, fundamental changes to the responses submitted during the course of the investigation render its data unreliable. In particular, petitioner objects to Chen Hao Taiwan's submission of allegedly ''minor corrections'' at the beginning of verification and submitted for the record on October 8, 1996. Petitioner claims that this information is untimely under 19 CFR 353.31 as it contains new information, which may not be accepted at verification, and should therefore be (wholly or, at a minimum, partially) rejected for use in the final determination following the precedent in *Final Results of Administrative Review: Titanium Sponge from the Russian Federation* (61 FR 58525, November 15, 1996) (*Titanium Sponge*). Further, petitioner claims it was deprived of its ability to comment on this data prior to verification.

Chen Hao Taiwan responds that, by focusing on the absolute number of corrections made, petitioner ignores the fact that the changes were made to ensure that the most complete and accurate responses were submitted for the record and properly verified. According to Chen Hao Taiwan, its revisions corrected typographical and data entry errors; the corrections related to misreported items, rather than unreported items. Chen Hao Taiwan adds that this situation is different from *Titanium Sponge*, where the rejected submission related to previously unreported items of which the Department was not alerted, while in this proceeding, Chen Hao Taiwan properly advised the Department of its corrections. Chen Hao Taiwan states that it responded to the best of its ability in this proceeding and, thus, there is no basis to apply facts available.

DOC Position. We disagree with petitioner's description of Chen Hao Taiwan's October 8 submission as an extensive and entirely new cost submission. Chen Hao Taiwan corrected elements of its labor and factory overhead data, which resulted in revised figures for these components of its COP and CV calculations. Although the labor and overhead expenses for some specific products changed substantially, the effect on the total COP and CV was relatively insignificant. Chen Hao Taiwan did not revise its methodology for calculating these expenses. The corrections submitted by Chen Hao Taiwan prior to verification did not include new methodologies or expense claims; there was no new area of the response in which the petitioner did not have the opportunity to comment. In short, the corrections submitted by Chen Hao Taiwan were typical of the minor corrections routinely accepted by the Department at the commencement of verification.

We agree with Chen Hao Taiwan that the submission of these corrections is not comparable with the *Titanium Sponge* example, where the Department, rather than the respondent, identified the information in the course of verification, and the information discovered was a new issue, not previously discussed in the proceeding. Chen Hao Taiwan fully apprised the Department of all revisions at the commencement of verification. Its revisions corrected data already on the record and did not introduce new issues not previously reported on the record.

Accordingly, we determine that resorting to facts available is unwarranted in this particular case. The Department's use of facts available is subject to section 782(d) of the Act. Under section 782(d), the Department may disregard all or part of a respondent's questionnaire responses when the response is not satisfactory or it is not submitted in a timely manner. The Department has determined that neither of these conditions apply. The Department was able to verify the response, thus rendering it satisfactory, and the types of revisions submitted by Chen Hao Taiwan met the deadline for such changes. Under section 782(e), the Department shall not decline to consider information that is 1) timely, 2) verifiable, 3) sufficiently complete that it serves as a reliable basis for a determination, 4) demonstrated to be provided based on the best of the respondent's ability, and 5) can be used without undue difficulties. In general, Chen Hao Taiwan has met these conditions.

Accordingly, we find no basis to reject Chen Hao Taiwan's response, and thus, no basis to rely on the facts otherwise available for our final determination.

Comment 3: Yield Rate

Petitioner claims that Chen Hao Taiwan improperly reported overall yield information for its COP and CV data when it had more accurate, product-specific data available. Petitioner alleges that the verification exhibits establish that Chen Hao Taiwan maintains product-specific yield information and, therefore, could have reported its costs on this basis, rather than an overall yield figure applied to all of its products. Petitioner claims that by reporting overall yield figures, Chen Hao Taiwan may be attempting to mask dumping margins generated by sharply different yields among products, which is the experience of the U.S. industry. Since Chen Hao Taiwan allegedly chose instead to report less accurate production data, petitioner contends that the Department should reject Chen Hao Taiwan's data as submitted and adjust the yield rate by applying the reported yield factor to each additional production step that each product undergoes.

Chen Hao Taiwan disputes petitioner's analysis of its production records and states that the Department verified that Chen Hao Taiwan does not

maintain records in its normal course of business that would permit it to report product-specific yield. Chen Hao Taiwan maintains that the verification exhibit cited by petitioner does not support petitioner's contention that Chen Hao Taiwan was able to report product-specific yield data. Chen Hao Taiwan argues that while petitioner may maintain product-specific yield information, it does not mean that the Department must also assume that respondent must also maintain the same information. Chen Hao Taiwan asserts that the Department cannot penalize a respondent with facts available for failure to provide information which does not exist.

DOC Position. We agree with Chen Hao Taiwan. The Department's preference is to use product specific cost data, including product-specific yield results, for calculating COP and CV. The Department uses the most specific and reasonable allocation methods available, given a respondent's normal record keeping system (*see Final Determination of Sales at Less than Fair Value: Welded Stainless Steel Pipe from Malaysia,* 59 FR 4023, 4027, January 28, 1994). In this instance, Chen Hao Taiwan reported its costs based on overall yield information because it claimed that its records do not permit it to calculate cost data on a more specific basis. Our verification revealed nothing to contradict Chen Hao Taiwan's claim that it does not maintain product-specific yield data in its normal course of business. We also verified that Chen Hao Taiwan was not able to calculate yields for the POI on a more specific basis than the yield rate which was reported. The accounting records identified by petitioner could arguably be used to calculate an average yield for each specific order; however, Chen Hao Taiwan does not retain production batch records in its normal course of business beyond a short period of time. The examples from the verification are from the time of verification, October 1996—well beyond the POI. Moreover, Chen Hao Taiwan's financial accounting documents, including inventory and production ledgers, do not track production information on a product-specific basis. For these reasons, we have accepted Chen Hao Taiwan's reported average yield rate calculation, which was adequately analyzed at verification.

Comment 4: Home Market Freight Expenses

Petitioner claims that Chen Hao Taiwan improperly allocated home market freight expenses across all products and all customers during the POI. Petitioner states that, based on information contained in the verification report, Chen Hao Taiwan should be able to report freight expenses on a customer-specific basis. Petitioner asserts that Chen Hao Taiwan's allocation methodology masks differences in freight expenses that may result in a larger freight expense deduction for subject merchandise sales than if freight expenses had been reported on a more specific basis. Therefore, petitioner contends that the Department should deny Chen Hao Taiwan's claimed freight adjustment.

Chen Hao Taiwan argues that verification indicated that Chen Hao Taiwan's freight expense records did not permit reporting on a more specific basis.

DOC Position. The Department's preference is that, wherever possible, freight adjustments should be reported on a sale-by-sale basis rather than an overall basis (*see, e.g., Final Results of Antidumping Duty Administrative Review: Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada,* 56 FR 47451, 47455, September 19, 1991). If a respondent does not maintain its records to enable freight expense reporting at this level, then our preference is to apply an allocation methodology at the most specific level permitted by a respondent's records. Chen Hao Taiwan allocated all home market freight expenses incurred on subject merchandise by weight over all home market sales, as demonstrated in the sample calculation submitted in the July 19, 1996, supplemental questionnaire response. However, as we noted in our verification report, ''we observed that Chen Hao may be able to total the amount charged to each customer during the POI, and divide that amount by the total shipments to that customer.'' This method is preferable to the method used by Chen Hao Taiwan.

Nevertheless, we note that Chen Hao Taiwan allocated home market freight expenses between subject and non-subject merchandise using a weight-based methodology, in compliance with the Department's supplemental questionnaire request. The Department did not specifically request Chen Hao Taiwan to provide a customer-specific allocation. Although Chen Hao Taiwan had the means to allocate home market freight expenses on a more specific basis, its failure to do so does not mandate the application of adverse facts available in this case because Chen Hao Taiwan has been responsive to the Department's requests. The principal advantage of a customer-specific freight allocation would be to take into account the freight distance to the customer, since distance is a component of the expense incurred by Chen Hao Taiwan. Given the distribution of Chen Hao Taiwan's home market customers, as identified in the verification report, and the location of Chen Hao Taiwan's principal home market MIDP customer, we find that Chen Hao Taiwan's reported home market freight methodology is sufficient. In similar circumstances, we have accepted a respondent's methodology if it is representative and non-distortive of transaction-specific sales information (*see Final Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Korea,* 60 FR 33561, June 28, 1995). Chen Hao Taiwan's methodology meets these criteria. Consequently, we have accepted Chen Hao Taiwan's reported home market freight expenses.

Comment 5: Allocation of Melamine Powder Rebate

Petitioner argues that Chen Hao Taiwan improperly allocated melamine powder rebates between its internal consumption and the material transferred to Chen Hao Xiamen. Petitioner claims that by assigning the entire amount of the rebate to melamine powder used for Taiwan consumption, Chen Hao Taiwan undervalued its raw material costs. Petitioner contends that Chen Hao Taiwan's melamine powder costs for COP and CV calculations should be recalculated to remove the amount of the rebate attributable to Chen Hao Xiamen transfers.

Chen Hao Taiwan responds that petitioner is incorrect and that, in fact, the Department verified that the melamine powder rebates were allocated equally over all melamine powder purchases.

DOC Position. We agree with Chen Hao Taiwan. We verified that Chen Hao Taiwan properly allocated the melamine powder rebate over all its purchases during the POI and thus the per-unit melamine powder cost for Chen Hao Taiwan's COP and CV calculations properly accounts for the rebate. However, as we stated in the Chen Hao Taiwan verification report, ''[t]he values reported for Chen Hao *Xiamen's* melamine powder consumption do *not* include an adjustment for the rebate.'' (Emphasis added.) Chen Hao Taiwan's melamine powder costs are not in question.

Comment 6: Import Duties on Melamine Powder Costs

Petitioner contends that evidence on the record demonstrates that Chen Hao

Taiwan incurred duties on some imported raw materials, but did not report these duty amounts in its cost response. Petitioner thus argues that the Department should assume that all raw materials are imported and increase the costs of materials to include import duties and related costs.

Chen Hao Taiwan states that the Department verified that Chen Hao Taiwan correctly accounted for duties in reporting the unit prices of melamine powder purchased during the POI and that petitioner's allegation is incorrect. Chen Hao Taiwan further states that the verification exhibits confirm that the reported costs include the import duties paid on melamine powder purchased outside of Taiwan.

DOC Position. We agree with Chen Hao Taiwan. We verified that the reported costs for these inputs included all applicable expenses, including import duties. Support documentation for Chen Hao Taiwan's melamine powder costs, such as the operating statement and journal entries included in the verification exhibits, demonstrates that import duties, when incurred, are part of the total cost reported to the Department, and are included in the cost of materials used in our COP and CV calculations.

Comment 7: Unreconciled Cost Differences

Petitioner claims that Chen Hao Taiwan's cost of manufacturing data shows an unreconciled difference between the components of operating costs and the total operating costs. Because Chen Hao Taiwan has not provided an explanation for this discrepancy, petitioner argues that the cost of manufacturing should be increased to reflect this unreconciled cost difference.

Chen Hao Taiwan states that petitioner is incorrect because it misread a portion of a verification exhibit and thus erroneously arrived at its total. Accordingly, Chen Hao Taiwan states that its operating costs reconcile and no adjustment is needed.

DOC Position. We agree with Chen Hao Taiwan. We verified that Chen Hao Taiwan's operating costs reconciled, as indicated in the operating statement and trial balance included in the verification exhibits, and no adjustment is required. As Chen Hao Taiwan has noted, petitioner has misread the verification exhibit in question and arrived at an incorrect operating costs total.

Comment 8: Sales of Finished Goods in Cost of Materials Calculation

Based on its analysis of verification exhibits, petitioner claims that Chen Hao Taiwan included purchases of finished goods that it re-sold without further processing in its finished goods inventory, thus including these items in calculating its yield rate. Petitioner asserts that the yield rate used in COP and CV calculations must be adjusted to remove the accounting for these finished goods.

Chen Hao Taiwan contends that petitioner misread the relevant verification exhibit and that these items were not included in its cost of manufacturing calculation. Accordingly, Chen Hao Taiwan maintains that no adjustment is necessary.

DOC Position. We agree with Chen Hao Taiwan. We verified that the resold items were properly excluded from the cost of manufacturing calculation, as indicated in the cost of operations statement included in the verification exhibits, and that no adjustment is required.

Comment 9: Arm's-Length Pricing of Loans

Petitioner claims that Chen Hao Taiwan failed to demonstrate that interest free loans from affiliated parties are made at arm's length. Accordingly, petitioner argues that Chen Hao Taiwan's financial interest expense ratio for COP and CV calculations should be adjusted by adding an estimated market value for these loans based on the highest interest rate experienced by Chen Hao Taiwan.

Chen Hao Taiwan contends that these loans from related parties served as capital infusion. According to Chen Hao Taiwan, the transactions in question were additional investments from the owners of Chen Hao Taiwan of their own money into the company, with these funds labeled as ''loans'' for purposes of the financial statement. Chen Hao Taiwan argues that the Department's practice is to disregard such intracompany transfers, thus any resulting loan interest expense should be disregarded in the final determination.

DOC Position. Although Chen Hao Taiwan may consider the transactions in question to serve as equity capital infusions, its audited financial statement classifies them as long-term loans. Other than Chen Hao Taiwan's assertions,[1], we have no basis on the record to reclassify these amounts as equity. In such circumstances, the Department considers the amounts to be long-term loans, consistent with treatment in the respondent's financial statement (*see, Final Results of Administrative Review: Shop Towels from Bangladesh,* 60 FR 48966, 48967, September 21, 1995, and *Final Determination of Sales at Less than Fair Value: Fresh Cut Roses from Ecuador,* 60 FR 7019, 7039, February 6, 1995). Accordingly, we have recalculated Chen Hao Taiwan's interest expenses to include an interest expense based on the long-term interest rate experienced by Chen Hao Taiwan during the POI, as identified in the financial statement.

Comment 10: Exchange Gains in Financial Expenses

Petitioner contends that the financial expenses for Chen Hao Taiwan's COP and CV calculations include foreign exchange gains on export sales, which should be disallowed. Therefore, petitioner states that the financial expenses should be increased accordingly.

Chen Hao Taiwan does not object to this adjustment but states that the revised percentage identified in the verification report is incorrect; thus a corrected adjustment should be used.

DOC Position. We agree with petitioner and have adjusted financial expenses to exclude foreign exchange gains on export sales. We also agree with Chen Hao Taiwan that the adjustment percentage identified in the verification report contains a typographical error; we applied the correct percentage in our recalculation.

Comment 11: Pension Allowance

Petitioner states that verification revealed that Chen Hao improperly excluded a pension allowance in its costs.

Chen Hao Taiwan argues that, as the Department verified that no actual accrual for the pension allowance was made during the POI, costs should not be adjusted for a theoretically intended amount.

DOC Position. We agree with petitioner. We verified that Chen Hao Taiwan contributed to its employee retirement fund in the two years prior to the POI. It did not make the contribution during the POI and could not provide any satisfactory explanation for this omission. However, Chen Hao Taiwan reported that it made payments from the retirement fund during the POI. Based on these facts, we consider that Chen Hao Taiwan incurred an obligation for its pension plan during the POI. Accordingly, we have included the pension expense in our COP and CV calculations.

[1] Chen Hao Taiwan has cited *Final Results of Administrative Review: Fresh Cut Flowers from Colombia* (61 FR 42833, August 19, 1996) in support of its position; however this case is not on point. In that instance, the item in question was interest income, whereas here, the item is interest expense.

Comment 12: Certain Credit Expense Adjustments

Petitioner claims that Chen Hao Taiwan reported certain adjustments to its credit expenses for some U.S. sales. Petitioner asserts that the Department does not permit these adjustments and thus the credit expense for these sales should be disallowed.

Chen Hao Taiwan argues that it properly made these credit adjustments.

DOC Position. We agree with Chen Hao Taiwan. In such instances as those identified by parties in the proprietary versions of their submissions, the Department has added the imputed benefit to the price. (*See, e.g., Final Results of Antidumping Administrative Review: Mechanical Transfer Presses from Japan* (61 FR 52910, October 9, 1996), where, at Comment 5, we stated that ''[b]ecause payment was made prior to shipment, [respondent] should receive an imputed benefit for credit.'')

Comment 13: Unreported U.S. Dollar Charges

Petitioner contends that, as identified in verification documents, Chen Hao Taiwan did not report charges such as currency brokerage and bank fees for U.S. sales denominated in U.S. dollars. Accordingly, petitioner argues that a percentage based on the observed charges should be added to all U.S. dollar sales.

Chen Hao Taiwan states that it has accounted for all charges and fees. Citing the verification report, Chen Hao Taiwan asserts that the Department verified that the sales value for all U.S. sales was correctly reported, and no discrepancies apart from those identified in the verification report were found.

DOC Position. We agree with petitioner that Chen Hao Taiwan did not include certain bank fees incurred on U.S. dollar denominated sales in its sales reporting. Based on the verification documents, we have calculated a percentage for these charges and included the result as a circumstance of sales adjustment.

Comment 14: Payment Period on U.S. Sales

Petitioner contends that, based on its analysis of a set of verification exhibits, Chen Hao Taiwan incorrectly reported the payment date on U.S. sales by reporting the date that it closed the account receivable entry in its records, rather than the date the payment was actually made. Accordingly, petitioner argues that the payment date for all U.S. sales should be adjusted to reflect the actual payment period, based on information obtained at verification.

Chen Hao Taiwan responds that petitioner misread the documents in the sales verification exhibit, and that the payment situation described by petitioner referred to Chen Hao Taiwan's payment to its freight company, not payment from the U.S. customer. Accordingly, Chen Hao Taiwan states that it has correctly reported its payment dates and no adjustments are required.

DOC Position. We agree with Chen Hao Taiwan. The payment, accounts receivable, and accounts payable documents included in the verification exhibit for this transaction confirm that the payment identified by petitioner does not apply to customer payment, but rather to the freight expense paid to Chen Hao Taiwan's freight company.

Comment 15: Allocation of Home Market Royalty Expenses

Petitioner alleges that Chen Hao Taiwan misreported royalty expenses incurred on certain home market sales because it had not properly accounted for advances paid on royalty expenses owed. Petitioner contends that the royalty advance payments should be treated as indirect selling expenses for purposes of the COP test because these expenses were fixed costs and were incurred regardless of the quantity sold.

Chen Hao Taiwan states that the Department verified the actual royalty amount paid and the actual amount of sales subject to royalty during the POI. In addition, Chen Hao Taiwan states that the Department verified that royalties applied only to certain products. Accordingly, Chen Hao Taiwan contends that the Department should continue to treat royalties as a direct expense and use the verified amount for royalty amounts to calculate the actual per-unit royalty expense paid during the POI.

DOC Position. The Department has normally treated royalty expenses as direct expenses when a respondent incurs this expense upon the sale of a product covered under a royalty agreement (*see, e.g., Final Results of Antidumping Duty Administrative Review: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Japan,* 58 FR 30018, May 25, 1993). Consistent with the royalty agreement on the record, Chen Hao Taiwan incurred a royalty expense liability for home market sales of the specific type of merchandise covered under the agreement, as discussed in the verification report. Chen Hao Taiwan entered into the royalty agreement at the beginning of the POI. Under the terms of the agreement, which are on the record, certain advance payments were required during the POI. In order to comply with the terms of the agreement, Chen Hao Taiwan paid these amounts even though its sales of the covered products were not at the level at which it would pay the same amount based on royalty percentages in the agreement. However, the agreement states that future royalty expenses incurred may be offset against this advance. Although we verified that Chen Hao Taiwan does not account for these potential future offsets, we verified that Chen Hao was in full compliance with the terms of the agreement. It is clear that the royalty agreement only applies to certain home market sales and that, after this initial ''startup'' period, its actual royalty expenses will tie directly to the covered sales. Therefore, this expense is properly classified as a direct expense.

Allocating POI expenses over POI sales is not appropriate because, in effect, a portion of the POI expenses is attributable to future sales. The most appropriate allocation of the expenses is to apply the royalty percentage in the agreement, which is how Chen Hao Taiwan reported the expenses, because it reflects the amount of the expense incurred by a particular sale, after taking into account the eventual offset of all advances. In this instance, we are allocating expenses based on the expected eventual royalty expense liability.

Comment 16: Value Added Tax (VAT) on CV Material Costs

Petitioner argues that Chen Hao Taiwan failed to include a 5 percent VAT on its Taiwan material purchases, thus understating the constructed value of each product. Therefore, petitioner contends that CV materials costs should be increased to reflect the VAT.

Chen Hao Taiwan states that it followed the Department's questionnaire instructions and properly reported its material costs exclusive of VAT. Therefore, Chen Hao Taiwan maintains that CV materials costs should not be increased by the VAT amount.

DOC Position. In accordance with section 773(e) the Department's policy is to include in its calculation of CV internal taxes paid on materials unless such taxes are remitted or refunded upon exportation of the finished product into which the material is incorporated (*see e.g. Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand,* 60 FR 10552, February 27, 1995). In this case, we observed that Taiwan MIDP companies are able to credit VAT paid

on inputs (whether used for domestically sold or exported MIDPs) against what they owe to the Taiwan government as a result of VAT collected on domestic sales. More importantly, however, where VAT owed was less than VAT paid because exports out paced domestic sales, the companies received from the government a refund of VAT paid on materials incorporated into exported finished products. As discussed in the Chen Hao Xiamen verification report in the concurrent *MIDPs from PRC* investigation:

> Chen Hao [Taiwan] paid VAT on its Taiwan purchases, which included such items as melamine powder from the principal supplier. Chen Hao also incurred a VAT liability on sales made in Taiwan. Export sales were excluded from this liability, which included the re-sale of the melamine powder to [an affiliated party]. . . . Chen Hao [Taiwan] paid the difference of VAT collected from its Taiwan sales and VAT paid on Taiwan purchases. (November 18, 1996, verification report at pages 8–9, and included on this record in a December 20, 1996, Memorandum to the File.)

Thus, VAT paid on materials incorporated into exported products is refunded by reason of export and therefore is not appropriately included in CV. Accordingly, we have not added VAT to the CV calculation.

Comment 17: Matching of Certain Products

Petitioner claims that Chen Hao Taiwan assigned certain identical products different control numbers used for model matching. In turn, petitioner contends, the Department's model matching program improperly treated these identical products as different products. Petitioner thus argues that the Department should either revise its computer program to ignore Chen Hao Taiwan's control numbers or re-code these products with identical control numbers.

Chen Hao Taiwan responds that the control numbers in question relate to physically different products because some differ in color from the others. Thus, Chen Hao Taiwan contends that the Department should continue to treat the products as different products with unique control numbers.

DOC Position. Petitioner is incorrect with regard to its description of the Department's model matching program. The program does, in fact, ignore control numbers to determine identical or most similar products. Color is not a matching criterion in this investigation; thus, it is appropriate to treat these products, if otherwise identical, as identical products for purposes of model matching. In one instance cited by petitioner, we note that the Department properly compared home market sales of both products in question to the U.S. sales of this product. In the other instance cited by petitioner, we did not match the U.S. sales to the second model identified by petitioner because the difference in merchandise adjustment for that comparison exceeded the Department's 20 percent threshold.

Comment 18: Yu Cheer Credit Expenses

Petitioner contends that Yu Cheer incorrectly reported payment dates on U.S. sales because, until verification, it did not indicate that it had received payment for at least some sales on multiple dates. Petitioner states that the record contains no explanation of the multiple payment date procedure and no information on how often Yu Cheer's customers use this payment approach. In addition, petitioner alleges that Yu Cheer has also misreported shipment dates, used to calculate credit expenses, because Yu Cheer stated at verification that it sometimes revises shipping documents after shipment, thus calling into question the reliability of its reported information. Therefore, petitioner argues that the home market credit adjustment should be rejected and the U.S. credit expense should be based on the longest credit period for any reported sale as facts available.

Yu Cheer states that its payment and shipment dates were correctly reported, as noted in the verification report. Further, Yu Cheer states that the verification report indicates that the shipment revisions did not affect Yu Cheer's reported shipment dates. Therefore, Yu Cheer contends that the discrepancies cited by petitioner fail to provide any reasonable basis for rejecting Yu Cheer's claimed credit expenses.

DOC Position. We agree with Yu Cheer. Yu Cheer properly reported the elements of its imputed credit expenses and thus we have accepted its claimed imputed credit expenses. As we stated in the verification report, Yu Cheer's shipment revisions do not affect the reported shipment dates. Where appropriate, we have recalculated the credit expense using the corrected payment information obtained at verification.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of MIDPs—with the exception of those manufactured/exported by Yu Cheer—that are entered, or withdrawn from warehouse, for consumption on or after August 22, 1996, the date of publication of our preliminary determination in the Federal Register. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. This suspension of liquidation will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage
Chen Hao Taiwan	3.25
Yu Cheer	0.00
IKEA	53.13
Gallant	53.13
All Others	3.25

Pursuant to section 733(d)(1)(A) and section 735(c)(5) of the Act, the Department has not included zero, *de minimis* weighted-average dumping margins, or margins determined entirely under section 776 of the Act, in the calculation of the ''all others'' rate.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: January 6, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–754 Filed 1–10–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–827]

Certain Cased Pencils From the People's Republic of China; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of preliminary results and partial rescission of antidumping duty administrative review.

SUMMARY: On February 1, 1996, the Department of Commerce (the Department) published a notice of initiation of an administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China (PRC) covering the period of December 21, 1994 through November 30, 1995. The Department is now rescinding this review in part with respect to respondents who had no shipments of the subject merchandise during the period of review, including Guangdong Provincial Stationery & Sporting Goods Import and Export Corporation (Guangdong), and China First Pencil Company, Ltd. (China First). We are basing the preliminary results on ''facts available'' for those companies that did not respond to our questionnaire.

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Thomas Futtner, Office of Antidumping Countervailing Duty Enforcement, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone (202) 482–4474/3814.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Departments regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Scope of the Review

The products covered by this review are certain cased pencils of any shape or dimension which are writing and/or drawing instruments that feature cores of graphite or other materials encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to this review are classified under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Specifically excluded from the scope of this investigation are mechanical pencils, cosmetic pencils, pens, non-case crayons (wax), pastels, charcoals, and chalks. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Background

On November 8, 1994 the Department issued its final determination of sales at less-than-fair value (LTFV) on certain cased pencils from the PRC (59 FR 55625). In it, we calculated zero margins for certain producer/exporter combinations: China First/Company A and Guangdong/Company B. China First/Any other manufacturer received a rate of 44.66 percent (formerly called the all others rate, now the PRC rate) and Guangdong/Any other manufacturer also received a rate of 44.66 percent. We stated that, consistent with *Jia Farn Manufacturing Co., Ltd.* v. *United States, 817 F.Supp. 969 (CIT 1993) (''Jia Farn'')*, we would exclude from the application of the order any imports of ''subject merchandise sold by the exporter and manufactured by that specific producer. Merchandise that is sold by the exporter but manufactured by other producers will be subject to the order * * *'' (59 FR at 55631). These exclusions based on exporter/producer combinations are consistent with 19 CFR 353.21(c).

On December 28, 1994, we published an antidumping duty order (59 FR 66909) that stated that imports of the two producer/exporter combinations identified in the LTFV investigation had margins of zero. We stated in the antidumping duty order that we would exclude from the order imports of subject merchandise that are sold by ''either China First or Guangdong and manufactured by the producers whose factors formed the basis for the zero margin'' (59 FR at 66910). In the final determination, we referred to the corresponding producers as Company A and Company B. Those producer/exporter combinations were subsequently identified in the order as China First/China First and Guangdong/Three Star Stationery.

In response to our notice of opportunity to request administrative review, for this first administrative review, the petitioner (the Writing Instrument Manufacturers Association) requested by letter dated January 11, 1996 that the Department conduct an administrative review of China First and Guangdong ''to determine whether merchandise purportedly produced and exported by the excluded combinations was, in fact, produced or exported by a combination of companies that are subject to the order.'' On February 1, 1996, the Department published a notice of initiation of an administrative review of China First, Guangdong and 94 other potential producers/exporters named by the petitioner in its review request covering the period of review (POR) December 21, 1994, through November 30, 1995.

On February 23, 1996, we sent a questionnaire to the companies for which the petitioner requested a review, including China First and Guangdong. In it, we specifically stated that pencils produced and exported by the excluded company combinations are not subject merchandise.

Rescission

Pursuant to 19 CFR 351.213(d)(3) of the Department's proposed regulations (61 FR 7308, 7365; February 27, 1996), we have determined that during the POR, China First did not export pencils to the United States that were manufactured by producers other than China First, and Guangdong did not export pencils to the United States that were manufactured by producers other than Three Star Stationery. We conducted on-site verification of this information in Shanghai and Guangzhou, China, from December 11, 1996, through December 13, 1996. We found no evidence of shipments of subject merchandise manufactured by producers other than China First or Three Star Stationery made by the exporters China First and Guangdong, respectively, to the United States during the POR. Therefore, we rescind this review with respect to China First and Guangdong. Furthermore, this review is also rescinded with respect to those respondents in this review, in addition to China First and Three Star Stationery, which reported that they made no shipments of subject merchandise during this POR, namely: (1) Tru Blue Products Ltd., (2) Onan Shipping Ltd., (3) Anhui Provincial Import & Export Corporation, (4) Aempac System Ltd., (5) The Merton Company Limited, (6) King Sun Company, (7) Shanghai Machinery & Equipment Import and Export Corporation, (8) China North Industries Tianjin Corporation, and (9) Panalpina, Inc.

Facts Available

Shanghai Lansheng (Shanghai), an exporter and a named respondent in this review, and a respondent in the LTFV investigation, did not respond to the questionnaire issued in this review. Because of Shanghai's failure to provide a questionnaire response, the administrative record in this proceeding lacks information necessary to make an informed determination regarding Shanghai's separate rate status, and we preliminarily determine that Shanghai is no longer entitled to a separate rate. Further, because Shanghai and other named respondents did not respond to our questionnaire in this review, as adverse facts available, imports of subject merchandise from Shanghai and all other producers/exporters who have not qualified for a separate rate will be subject to the PRC rate of 44.66 percent, the highest rate established in the LTFV investigation.

Section 776(a)(1) of the Act mandates that the Department use the facts available if necessary information is not available on the record of an antidumping proceeding. In addition, section 776(a)(2) of the Act mandates that the Department use the facts available where an interested party or any other person: (A) Withholds information requested by the Department; (B) fails to provide requested information by the requested date or in the form and manner requested; (C) significantly impedes an antidumping proceeding; or (D) provides information that cannot be verified. In this case, Shanghai and other named respondents failed to respond to the Department's questionnaire. Where the Department must base the entire dumping margin for a respondent in an administrative review on the facts available because that respondent failed to cooperate, section 776(b) authorizes the Department to use an inference adverse to the interests of that respondent in choosing the facts available. Section 776(b) also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Because information from prior proceedings constitutes secondary information, section 776(c) provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) (H. Doc. 316, 103d Cong., 2nd Sess. 870) provides that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value.

The SAA, at page 870, clarifies that the petition is ''secondary information,'' and that ''corroborate'' means to determine that the information has probative value. Id. During our analysis of the petition in the LTFV investigation, we reviewed all of the data submitted and the assumptions that petitioners had made when calculating estimated dumping margins. US purchase price (now export price) was based on multiple price quotes. The factors values for calculation of the foreign market value (now normal value) were based on public data, where available. However, as a result of our analysis, we recalculated the petition rates due to errors made by the petitioner in the calculation of paint costs, profit, and depreciation expenses. (*See* concurrence memorandum to file dated November 29, 1993.) We also rejected petitioner's methodology of using the cost of a finished core in our factors analysis, as this would have resulted in double counting of certain expenses included in the cost of a finished core. (*See* initiation notice, (58 FR 64548, December 8, 1993).) Thus, because we reviewed the petitioners assumptions and calculations from which the petition rates were derived, and made appropriate corrections, we determine that the petition rates, as corrected, have probative value.

The weighted-average dumping margins are as follows:

Manufacturer/Producer/Exporter	Weighted Average Margin Percentage
PRC Rate	44.66

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. See § 353.38 of the Department's regulations. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments. The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of pencils from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for all Chinese exporters, will be the rate established in the final results of this review; and (2) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate of its supplier, *i.e.*, the PRC rate. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under § 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act and § 353.22 of the Department's regulations.

Dated: January 2, 1997.

Robert S. La Russa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–750 Filed 1–10–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Amendment of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment of final results of antidumping duty administrative review.

SUMMARY: On November 14, 1996, the Department of Commerce (the Department) published the final results of its administrative review of and notice of revocation in part of the antidumping duty order on

polyethylene terephthalate (PET) film, sheet, and strip from the Republic of Korea. The review covered three manufacturers/exporters of the subject merchandise to the United States and the period June 1, 1994 through May 31, 1995. Based on the correction of a ministerial error made in those final results for one manufacturer/exporter, we are publishing this amendment to the final results in accordance with 19 CFR 353.28(c).

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT:

Michael J. Heaney or Linda Ludwig, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4475 or 3833, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Tariff Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 1, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On November 14, 1996 (61 FR 58374), the Department published the final results of review and notice of revocation in part of the antidumping duty order on PET film from the Republic of Korea (56 FR 25669, June 5, 1991). On November 20, 1996, we received a timely allegation from STC Corporation (STC) that the Department made a ministerial error in its final results.

STC contended that in its margin calculations the Department incorrectly matched U.S. sales to constructed value rather than to identical sales within the contemporaneous 90/60 day period. We agree with STC that we made this ministerial error, and have corrected that ministerial error in these amended results.

Amended Final Results of Review

As a result of our correction of a ministerial error, we have determined the margin to be:

Company	Margin (Percent)
STC	1.68

The Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between U.S. Price and Normal Value may vary from the percentages stated above. The Department will issue appraisement instructions concerning each respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these amended final results of administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for STC will be the rate indicated above, (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 4.82 percent, the all-others rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as the final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

These amended final results of administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.28(c).

Dated: January 7, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–749 Filed 1–10–97; 8:45 am]

BILLING CODE 3510–DS–M

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of intent to renew information collection #3038–0035—rules relating to the offer and sale of foreign futures and foreign options.

SUMMARY: The Commodity Futures Trading Commission is planning to renew information collection 3038–0035, Rules Relating to the Offer and Sale of foreign Futures and Foreign Options which is due to expire on April 30, 1997. The information collected pursuant to this rule is intended to detect fraud in the offer and sale of foreign futures and foreign options to people located in the United States. In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

DATES: Comments must be received on or before March 14, 1997.

ADDRESSES: Persons wishing to comment on this information collection should contact the CFTC Clearance Officer, 1155 21st Street NW., Washington, DC 20581, (202) 418–5160.

Title: Rules Relating to the Offer and Sale of Foreign Futures and Foreign Options.

Control Number: 3038–0035.
Action: Extension.
Respondents: FCMs, IBs, CPOs, CTAs and APs.
Estimated Annual Burden: 2816 hours.

Respondents	Regulation (17 CFR)	Estimated No. of respondents	Annual responses	Est. avg. hours per response
FCMs, IBs, CPOs, CTAs, APs	30.4	560	560	1.00
	30.5	136	136	1.00
	30.6	440	440	.50
	30.7	120	120	.50
	30.8	120	1,440	1.00
	30.10	120	120	4.00

Issued in Washington, DC on January 7, 1997.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 97–666 Filed 1–10–97; 8:45 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meeting

Pursuant to the provisions of the Government in the Sunshine Act (5 U.S.C. 552b), notice is hereby given of the following meeting of the Board of Directors of the Corporation for National and Community Service (the Corporation).

DATE AND TIME: Friday, January 17, 1997, from 10:30 a.m. to 3:00 p.m.

PLACE: The Corporation for National and Community Service, 1201 New York Avenue NW, 8th Floor Conference Room, Washington, DC 20525.

STATUS: The meeting will be open to the public up to the seating capacity of the room.

MATTERS TO BE CONSIDERED: The Board of Directors of the Corporation will meet to review (1) reports from committees of the Board of Directors on Corporation activities, (2) a report from the Chief Executive Officer, and (3) the status of Corporation initiatives.

ACCOMMODATIONS: Those needing interpreters or other accommodations should notify the Corporation by January 15, 1997.

FOR FURTHER INFORMATION: Contact Rhonda Taylor, Associate Director of Special Projects and Initiatives, the Corporation for National and Community Service. Telephone (202) 606–5000 ext. 282. TTD Number (202) 565–2700. This notice may be requested in an alternative format for the visually impaired.

Dated: January 9, 1997.

Barry W. Stevens,

Acting General Counsel, Corporation for National and Community Service.

[FR Doc. 97–895 Filed 1–9–97; 3:30 pm]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[FAR Case 92–054B]

Submission for OMB Review Entitled Environmentally Preferable Products

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning Environmentally Preferable Products (FAR Case 92–054B). This request is pursuant to the emergency processing provisions of the Paperwork Reduction Act of 1995 (Public Law 104–13).

DATES: *Comment Due Date:* March 14, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite FAR case 92–054B, Environmentally Preferable Products, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Linfield, Office of Federal Acquisition Policy, GSA (202) 501–1757.

SUPPLEMENTARY INFORMATION:

A. Purpose

E.O. 12856 of August 3, 1993, ''Federal Compliance With Right-To-Know Laws and Pollution Prevention Requirements,'' requires that Federal facilities comply with the planning and reporting requirements of the Pollution Prevention Act of 1990 and the Emergency Planning Community Right-to-Know Act of 1986. The E.O. requires that contracts to be performed on a Federal facility provide for the contractor to supply to the Federal agency all information the Federal agency deems necessary to comply with these reporting requirements.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents *2,550*; responses per respondent, *7.6*; total annual responses, *19,500*; preparation hours per response, *.75*; and total response burden hours, *14,500*.

OBTAINING COPIES OF JUSTIFICATIONS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite FAR case 92–054B, Environmentally Preferable Products, in all correspondence.

Dated: January 7, 1997.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 97–691 Filed 1–10–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Fourth Annual National Security Education Program (NSEP) Institutional Grants Competition

AGENCY: Department of Defense, National Security Education Program (NSEP).

ACTION: Notice.

SUMMARY: The NSEP announces the opening of its Fourth Annual Competition for Grants to U.S. Institutions of Higher Education.

DATES: Grants Solicitations (applications) will be available beginning Monday, February 10, 1997. Preliminary proposals are due Friday, April 18, 1997. Electronic submissions will *not* be accepted.

ADDRESS: Request copies of the solicitations (applications) from NSEP, Institutional Grants, Rosslyn P.O. Box 20010, 1101 Wilson Blvd., Suite 1210, Arlington, VA 22209–2248, by FAX to (703) 696–5667, or via INTERNET: nsepo@nsep.policy.osd.mil Also, after February 10, 1996 the NSEP Institutional Grant Solicitation will be available on the NSEP homepage: http://www.dtic.mil/defenselink/pubs/nsep

FOR FURTHER INFORMATION CONTACT: Dr. Edmond J. Collier, Deputy Director, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Arlington, Virginia 22209–2248; (703) 696–1991 Electronic mail address: collier@nsep.policy.osd.mil.

Dated: January 7, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–704 Filed 1–10–97; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Underground Facilities

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Underground Facilities will meet in closed session on January 22–23, 1997 at Strategic Analysis, Inc., Fairfax, Virginia. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will address the threat to U.S. interests posed by the growth of underground facilities in unfriendly nations. The Task Force should investigate technologies and techniques to meet the international security and military strategy challenges posed by these facilities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c) (1) (1994), and that accordingly this meeting will be closed to the public.

Dated: January 7, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–705 Filed 1–10–97; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Corps of Engineers

Grant of Exclusive License

AGENCY: U.S. Army Corps of Engineers.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.7(a)(1)(i), announcement is made of prospective exclusive licenses of U.S. Patent No. 5,441,362, entitled ''Concrete Armor Unit for Protecting Coastal and Hydraulic Structures and Shorelines,'' and U.S. Patent Application No. 08/290,721, entitled ''Concrete Armor Unit to Protect Coastal and Hydraulic Structures and Shorelines.''

DATES: Written objections must be filed not later than March 14, 1997.

ADDRESSES: U.S. Army Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199, ATTN: CEWES–OC.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Stewart (601) 634–4113.

SUPPLEMENTARY INFORMATION: The Concrete Armor Units were invented by Jeffrey A. Melby and George F. Turk (Application No. 128,426; U.S. Patent No. 5,441,362, Filed September 30, 1993, Issued August 15, 1995; Application No. 290,721, Filed November 15, 1995). Rights to the United States patent and the patent application have been assigned to the United States of America as represented by the Secretary of the Army. The United States of America as represented by the Secretary of the Army intends to grant an exclusive license for all fields of use, in the manufacture, use, and sale in the territories and possessions, including territorial waters of, the United States of America, Canada, and the United States of Mexico to Concrete Technology Corporation, P.O. Box 1159, Tacoma, WA 98401.

Pursuant to 37 CFR 404.7(a)(1)(i), any interested party may file a written objection to this prospective exclusive license agreement.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–707 Filed 1–10–97; 8:45 am]

BILLING CODE 3710–92–M

Corps of Engineers

Patents Available for Licensing

AGENCY: U.S. Army Corps of Engineers.

ACTION: Notice.

SUMMARY: The Department of the Army, U.S. Army Corps of Engineers, announces the general availability of exclusive, or partially exclusive licenses under the following patents. Any license granted shall comply with 35 U.S.C. 209 and 37 C.F.R. Part 404.

Patent No.	Title	Issue date
5,472,215	Rotating High Vacuum Mercury Seal	12/05/95
5,474,837	Laminated Paper Glass Camouflage	12/12/95
5,483,836	Device for Measuring Lateral Deformation in Material Test Specimens	1/16/96
5,483,862	Apparatus and Method for Homogenizing Plastic	1/16/96
5,487,311	Air Velocity Averaging Rotor	1/30/96
5,517,465	Multiple Sensor Fish Surrogate for Acoustic and Hydraulic Data Collection	5/14/96

Patent No.	Title	Issue date
5,528,142	Resonant Eddy Analysis—A Contactless, Inductive Method for Deriving Quantative Information About the Conductivity and Permeability of a Test Sample.	6/18/96
5,528,935	Stress and Velocity Gauge	6/25/96
5,531,824	Method of Increasing Density and Strength of Highly Siliceous Cement-Based Materials	7/2/96
5,548,115	Probe Device for Detecting Contaminants in Subsurface Media	8/20/96

ADDRESSES: Humphreys Engineer Center Support Activity, Office of Counsel, 7701 Telegraph Road, Alexandria, Virginia 22315–3860.

DATES: Applications for an exclusive or partially exclusive license may be submitted at any time from the date of this notice. However, no exclusive or partially exclusive license shall be granted until April 14, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia L. Howland (703) 428–6672 or Alease J. Berry, (703) 428–8160.

SUPPLEMENTARY INFORMATION: USP 5,472,215 is a seal which allows the transmission of high vacuum from a vacuum pump to rotating machinery such as a centrifuge. The seal can accommodate unlimited rotation with minimal frictional resistance.

USP 5,474,837 is a method and means of producing low cost camouflage materials whose physical and spectral characteristics can be adapted to the camouflage environment. Also, the invention provides for construction materials for shelters and decoys with camouflaging features incorporated therein.

USP 5,483,836 is a device which is capable of accurately measuring the lateral response of material specimens subjected to a wide range of stresses and strains, and which is capable of surviving uncontrolled specimen failures.

USP 5,483,864 is a hand operated machine which transforms blocks of explosive material into a soft, homogeneous sheets which can then be easily compacted into a molded charge.

USP 5,487,311 is an improved device for measuring the average air flow velocity within a conduit and providing that data in digital format.

USP 5,517,465 is a device which emulates the sensory organs of a fish and is used to record the environment of areas that are consistently avoided by fish to establish acoustic parameters for diverting fish away from areas of danger.

USP 5,528,142 provides a method for quantifying the conductivity or permeability of a test sample throughout a range of AC frequencies of between several Kilo Hertz to around 100 Mega Hertz.

USP 5,528,935 combines a stress gauge and velocity gauge in a single package. The invention can measure both normal stress and material velocity at the same location in a material which assists in understanding material behavior and the wave state in the material, in identifying the presence, location, and type of material boundaries near the measurement, and in quantifying the energy in the material at the point of the measurement.

USP 5,531,824 is a method of increasing the hardness and compressive strength of concrete and other cement-based products, and also decreasing their permeability to water which would be useful in such applications as chemical-resistant floors and hazardous waste storage.

USP 5,548,115 is a device for in-situ detection of contaminants such as petroleum products in a subsurface media such as soil. Among other things, the invention utilizes source and receiver filtering to improve sensitivity, and provides for an active or passive calibration source, separate from the excitation source and interior, to provide accurate calibration of analysis equipment.

Applications for an exclusive or partially exclusive license should contain the information set forth in 37 C.F.R. 404.8. Applications will be evaluated utilizing the following criteria: (1) Ability to manufacture and market the technology; (2) manufacturing and marketing capability; (3) Time required to bring technology to market and production rate; (4) Royalties; (5) Technical capabilities; and, (6) Small Business status.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–708 Filed 1–10–97; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.031A, CFDA No. 84.031G]

Extension of Closing Date for Receipt of Applications for Designation as an Eligible Institution for Fiscal Year 1997 for the Strengthening Institutions, Hispanic-Serving Institutions (HSIs), and Endowment Challenge Grant Programs

On November 27, 1996, a notice was published in the Federal Register (61 FR 60264–60265) that established closing dates for transmittal of applications for the FY 1997 designation of eligible institutions for the Strengthening Institutions, HSI, and Endowment Challenge grant programs. The purpose of this notice is to extend the closing dates for transmittal of applications. This action is taken as a result of the unavailability of applications until January 24, 1997.

The closing date for early applications is extended from February 13, 1997 to February 24, 1997. For applications submitted by February 24, 1997, the Department will notify the applicant of its eligibility status by March 31, 1997. Any of these applicants that believes it failed to be designated as an eligible institution because of errors in its application or insufficient information in its waiver request may submit an amended application to the Department no later than April 30, 1997.

The final closing date for all initial applications is extended from March 13, 1997 to March 26, 1997.

FOR APPLICATIONS OR INFORMATION CONTACT: Program Development Service Team I, Institutional Development and Undergraduate Education Service, U.S. Department of Education, 600 Independence Avenue, S.W., (Suite CY–80, Portals Building), Washington, D.C. 20202–5335. Telephone: (202) 708–8857 or 708–8839. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–

9950; on the Internet Gopher Server (at gopher://gcs.ed.gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 1057, 1059c and 1065a.

Dated: January 7, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–735 Filed 1–10–97; 8:45 am]

BILLING CODE 4000–01–P

Office of Postsecondary Education; Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of the closing date for institutions to submit a request for a waiver of the allocation reduction for the underuse of funds under the Federal Perkins Loan, Federal Work-Study (FWS), or Federal Supplemental Educational Opportunity Grant (FSEOG) programs (known collectively as the campus-based programs).

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to submit a written request for a waiver of the allocation reduction being applied to its Federal Perkins Loan, FWS, or FSEOG allocation for the 1997–98 award year (July 1, 1997 through June 30, 1998) because the institution returned more than 10 percent of its allocation for that program for the 1995–96 award year (July 1, 1995 through June 30, 1996).

DATE: *Closing Date for Submitting a Waiver Request and any Supporting Information or Documents.* For an institution that returned more than 10 percent of its Federal Perkins Loan, FWS, or FSEOG allocation for the 1995–96 award year to be considered for a waiver of the allocation reduction for its 1997–98 award year allocation, it must mail or hand-deliver its waiver request and any supporting information or documents on or before February 14, 1997. The Department will not accept a waiver request submitted by facsimile transmission. The waiver request must be submitted to the Institutional Financial Management Division at one of the addresses indicated in the following section.

ADDRESSES: *Waiver Request and any Supporting Information or Documents Delivered by Mail:* The waiver request and any supporting information or documents delivered by mail must be addressed to Ms. Sandra Donelson, Institutional Financial Management Division, U.S. Department of Education, P.O. Box 23781, Washington, D.C. 20026–0781. An applicant must show proof of mailing consisting of one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) A dated shipping label, invoice, or receipt from a commercial carrier; or (4) Any other proof of mailing acceptable to the Secretary of Education.

If a waiver request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) A mail receipt that is not dated by the U.S. Postal Service.

An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office.

An institution is encouraged to use certified or at least first class mail. An institution that submits a waiver request and any supporting information or documents after the closing date will not be considered for a waiver of the allocation reduction being applied to its allocation under any of the campus-based programs for award year 1997–98.

Waiver Requests and any Supporting Information or Documents Delivered by Hand: A waiver request and any supporting information or documents delivered by hand must be taken to Ms. Sandra Donelson, Campus-Based Financial Operations Branch, Institutional Financial Management Division, Accounting and Financial Management Service, Student Financial Assistance Programs, U.S. Department of Education, Room 4714, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. Hand-delivered waiver requests will be accepted between 8:00 a.m. and 4:30 p.m. (Eastern time) daily, except Saturdays, Sundays, and Federal holidays. A waiver request for the 1997–98 award year that is delivered by hand will not be accepted after 4:30 p.m. on the closing date.

SUPPLEMENTARY INFORMATION: Under sections 413D(e)(2), 442(e)(2), and 462(j)(4) of the Higher Education Act of 1965, as amended, if an institution returns more than 10 percent of its Federal Perkins Loan, FWS, or FSEOG allocation for an award year, the institution will have its allocation for the second succeeding award year for that program reduced by the dollar amount returned. The Secretary may waive this requirement for a specific institution if the Secretary finds that enforcement of the requirement would be contrary to the interest of the affected campus-based program. The institution must provide a written waiver request and any supporting information or documents by the established February 14, 1997 closing date. The waiver request must be signed by an appropriate institutional official and above the signature the official must include the statement: ''I certify that the information the institution provided in this waiver request is true and accurate to the best of my knowledge. I understand that the information is subject to audit and program review by representatives of the Secretary of Education.'' If the institution submits a waiver request and any supporting information or documents after the closing date, the request will not be considered.

Applicable Regulations: The following regulations apply to the campus-based programs:

(1) Student Assistance General Provisions, 34 CFR Part 668.

(2) Federal Perkins Loan Program, 34 CFR Part 674.

(3) Federal Work-Study Program, 34 CFR Part 675.

(4) Federal Supplemental Educational Opportunity Grant Program, 34 CFR Part 676.

(5) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR Part 600.

(6) New Restrictions on Lobbying, 34 CFR Part 82.

(7) Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 34 CFR Part 85.

(8) Drug-Free Schools and Campuses, 34 CFR Part 86.

FOR FURTHER INFORMATION CONTACT: For technical assistance concerning the waiver request or other operational procedures of the campus-based programs, contact: Ms. Sandra Donelson, Institutional Financial Management Division, U.S. Department of Education, P.O. Box 23781, Washington, D.C. 20026–0781. Telephone (202) 708–9751. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m and 8 p.m., Eastern time, Monday through Friday.

Authority: 20 U.S.C. 1087aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.033 Federal Work-Study Program; and 84.038 Federal Perkins Loan Program)

Dated: January 7, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–734 Filed 1–10–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP97–168–000, CP97–169–000, CP97–177–000, and CP97–178–000]

Alliance Pipeline L.P.; Notice of Applications

January 8, 1997.

Take notice that on December 24, 1996, Alliance Pipeline L.P. (Alliance), 190 S. LaSalle Street, Suite 3174, Chicago, Illinois 60603–3441, filed in Docket Nos. CP97–168–000, CP97–169–000, CP97–177–000, and CP97–178–000 applications pursuant to section 7(c) and section 3 of the Natural Gas Act (NGA) and parts 284 and 157 of the Commission's regulations for: a certificate of public convenience and necessity pursuant to the Commission's optional certificate procedures to construct, own, operate, and maintain natural gas pipeline facilities; authorization pursuant to section 3 of the NGA and a Presidential Permit for the siting, construction, operation, and maintenance of certain facilities for the importation of natural gas; a blanket certificate authorizing open-access firm and interruptible transportation; and blanket certificate authorization to engage in certain routine activities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

As part of a coordinated pipeline project designed to transport 1.325 Bcf per day of natural gas from Alberta/British Columbia production areas in Canada to the midwestern United States, Alliance proposes to construct the United States portion of the pipeline facilities. Upon acceptance of the requested certification, Alliance will be a natural gas company subject to the Commission's jurisdiction.

In Docket No. CP97–168–000, Alliance requests authorization to construct, own, operate, and maintain 886.6 miles of 36-inch diameter pipeline originating at a point of interconnection with the Canadian portion of the coordinated project at the North Dakota/Saskatchewan border near Sherwood, Renville County, North Dakota. The proposed pipeline facilities would extend through North Dakota, Minnesota, and Iowa to a terminus in Will County, Illinois. Alliance also proposes to construct seven compressor stations located in: McHenry and Barnes Counties, North Dakota; Richland, Renville, and Freeborn Counties, Minnesota; Delaware County, Iowa, and Whiteside County, Illinois. The project cost is estimated to be about $1.3 billion. Alliance further requests pregranted abandonment of the proposed facilities, consistent with section 157.103(f) of the Commission's regulations.

In addition, Alliance states that a related gas processing plant is proposed to be constructed and operated by a non-jurisdictional affiliate, Aux Sable Liquid Products LP, in Grundy County, Illinois.

Alliance requests a Preliminary Determination on non-environmental issues by May 1, 1997, and a final order granting certificate authority on or before March 1, 1998, so that the proposed facilities can be placed in service by late 1999.

In Docket No. CP97–169–000, Alliance submitted an application pursuant to section 3 of the NGA, part 153 of the Commission's regulations, and Executive Order 10485, as amended by Executive Order 12038, and the Secretary of Energy's Delegation Order No. 0204–112, for section 3 authorization and a Presidential Permit to construct, operate, and maintain certain facilities for the importation of natural gas to be located at the international border between the United States of America and Canada near Sherwood, Renville County, North Dakota.

In Docket No. CP97–177–000, Alliance requests a blanket certificate under Part 284, Subpart G of the Commission's regulations. Alliance filed a *pro forma* tariff that offers firm and interruptible transportation with flexible delivery points. Alliance offers two rate options for firm transportation, negotiated or recourse rates. Shippers who choose negotiated rates would agree not to contest certain elements of the cost of service, and Alliance would agree not to change those elements for the length of the primary term and any extension under firm service agreements. Shippers who choose recourse rates would pay the rates ultimately approved by the Commission.

The Docket No. CP97–178–000, Alliance requests a blanket certificate authorizing construction operation, and abandonment of certain facilities under Part 157, Subpart F of the Commission's regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 29, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 3, 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Alliance to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–759 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 137–002–CA]

Pacific Gas and Electric Company; Notice Granting Extension of Time

January 8, 1997.

On December 26, 1996, the Notice of Availability of Draft Environmental Assessment (NDEA) for the Mokelumne River Project No. 137 was issued in the Federal Register (Vol. 61 No. 249 FR 68033). The NDEA requested that any comments should be filed within 30 days from the date of this notice. The

Commission issued the NDEA on December 19, 1996, comments are due by January 21, 1997.

In a letter dated January 2, 1997, Friends of the River, American Whitewater Affiliation, California Outdoors, and Foothill Conservancy (Intervenors) requested an extension of time to comment on the DEA until March 19, 1997. Intervenors state that they received copies of the DEA between December 31, 1996 and January 2, 1997, providing just over two weeks to file comments.

Further, Intervenors state that additional time is needed to review the DEA because: (1) many complex issues were raised in its comments on the Notice Ready for Environmental Analysis; (2) the proceeding began 24 years ago and the pertinent record is voluminous; and (3) recent developments regarding the operations of other facilities on the Mokelumne River, which may not be fully considered in the DEA, but which need to be integrated into the cumulative impact analysis.

Because the pertinent record is voluminous, and because the DEA wasn't received until the end of December 1996 or the beginning of January 1997, the date to file comments is extended until February 21, 1997. If you have any questions about this matter, please call Tom Dean at (202) 219–2778.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–762 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–174–000]

PanEnergy Field Services, Inc.; Notice of Petition for Declaratory Order

January 8, 1997.

Take notice that on December 30, 1996, PanEnergy Field Services, Inc. (Field Services),[1] 370 Seventeenth Street, Suite 900, Denver, Colorado 80202, filed in Docket No. CP97–174–000 a petition pursuant to Section 16 of the Natural Gas Act (NGA) and Rule 207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.207(a)(2)), for the declaratory order disclaiming Commission jurisdiction over certain facilities located upstream of its LaGloria Processing Plant in Hildago, Brooks, and Jim Wells Counties, Texas (South Texas Facilities) to be acquired from Trunkline Gas Company (Trunkline),[2] an affiliate, and the services provided through them, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Specifically, Field Services seeks a declaratory order from the Commission finding that:

(1) Upon transfer from Trunkline to Field Services, the South Texas Facilities described in Section VI and Attachment B to its petition, are facilities used for the gathering of natural gas and therefore exempt from the Commission's jurisdiction pursuant to Section 1(b) of the NGA;

(2) Field Services would not be a ''natural-gas company'' pursuant to Section 2(6) of the NGA by virtue of its proposed acquisition, ownership, and operation of the facilities;

(3) The gathering services that Field Services seeks to perform as described in Section VI and Attachment B to its petition would be exempt from the Commissions jurisdiction under Section 1(b) of the NGA; and

(4) Field Services' rates and charges for gathering services would not be subject to the Commission's jurisdiction pursuant to Sections 4 and 5 of the NGA.

Field Services states that upon transfer of the facilities from Trunkline to Field Services, Field Services would provide gathering services on an open access, non-discriminatory basis and would not become an ''affiliated marketer'' as defined by the Commission in its rules. Field Services also states that the South Texas Facilities would be transferred at their net book value.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 29, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–761 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–224–000]

Sea Robin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 8, 1997.

Take notice that on January 3, 1997, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the pro forma revised tariff sheets set forth on Appendix A to the filing in compliance with the Commission's Order No. 587 to become effective June 1, 1997.

On July 17, 1996, the Commission issued Order No. 587 in Docket No. RM96–1–000 which revised the Commission's regulations governing interstate natural gas pipelines to require such pipelines to follow certain standardized business practices issued by the Gas Industry Standards Board (GISB) and adopted by the Commission in said Order (18 CFR 284.10(b)). The standards govern certain aspects of the following practices of natural gas pipelines: nominations, allocations, balancing, measurement, invoicing, and capacity release. The revisions shown on the Tariff Sheets filed herewith reflect Sea Robin's compliance filing to conform with the GISB standards. The order required Sea Robin to submit its compliance filing for implementation of the approved standards by June 1, 1997.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR Sections 385.211 and 385.214). All such motions and protests must be filed on or before January 24, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

[1] Field Services is a wholly-owned subsidiary of PanEnergy Corp. and owns gathering and processing assets in the states of Alabama, Arkansas, Colorado, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, Texas and Utah.

[2] Trunkline has filed a related abandonment application in Docket No. CP97–173–000.

inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–765 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–172–000]

Shell Gas Pipeline Company; Notice of Application for a Blanket Certificate

January 7, 1997.

Take notice that on December 30, 1996, Shell Gas Pipeline Company (SGPC), 200 North Dairy Ashford, Houston, Texas 77079, filed in Docket No. CP97–172–000 for a Blanket Certificate of Public Convenience and Necessity under Subpart F Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

SGPC requests a 157 blanket certificate to construct or acquire and operate certain natural gas facilities that are necessary to provide transportation under Section 284.213 of the commission's Regulations. SGPC also states that it was granted a blanket transportation certificate by order issued in Docket No. CP96–156–002, and had rates accepted by the Commission in the same Order. SGPC further states that it has no budget-type certificates and that it will comply with the terms, conditions and procedures specified in Subpart F of Part 157 of the Regulations.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 14, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 97–693 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–159–005]

Shell Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 8, 1997.

Take notice that on December 19, 1996, Shell Gas Pipeline Company (Shell), 200 North Dairy Ashford, Houston, Texas 77079, tendered for filing in Docket No. CP96–159–005 as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets set forth in the Appendix [1] to the filing to become effective October 17, 1996.

Shell states that the purpose of its filing is to comply with the Commission order in Docket No. CP96–159–003 issued November 29, 1996. The Commission stated that in the event Shell adds new receipt and/or delivery points to its system, Shell must file tariff sheets to be consistent with Commission policy. Shell currently offers service to two delivery points: Venice Gas Plant and Texas Eastern Transmission Corp.; with service as approved to Columbia Gulf Transmission Company commencing in the near future. Although no service has been requested at any other delivery point than the Venice Gas Plant, Shell states that it anticipates such service will be made in the future. Specifically, Shell tenders for filing the revised tariff sheets which contain the revisions to Section 11.2 of the General Terms and Conditions and are listed in the Appendix to the filing, to be made effective October 17, 1996, concurrent with the effective date of the remainder of Shell's tariff sheets.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 or 385.214 of the Commission's Rules and Regulations. All such motions and protests must be on or before January 21, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to be proceeding. Any person wishing to become a party must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–758 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–M

[1] Shell's Appendix lists Substitute Original Sheet No. 81, Substitute Original Sheet No. 82, Substitute Original Sheet No. 83, and Original Sheet No. 83A.

[Docket No. PR96–2–000]

Transok, Inc.; Notice of Informal Settlement Conference

January 8, 1997.

Take notice that an informal settlement conference in the above-captioned proceeding will be held on Monday, January 13, 1997, at 10:00 a.m., by telephone. The telephone conference call will be placed in Conference Room No. 82–12, at the office of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C.

Participation will be limited to the parties and staff. Interested parties who wish to participate should inform Patricia Fludd at (202) 208–0020 or Kerry Noone at (202) 208–0285 by Friday, January 10, 1997, before 2:00 p.m., EST.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–763 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–751–005]

Transwestern Pipeline Company; Notice of Amendment to Application

January 7, 1997.

Take notice that on December 24, 1996, Transwestern Pipeline Company (Transwestern), Post Office Box 1188, Houston, Texas 77251–1188 filed an amendment (Amendment) to its original application in Docket No. CP94–751–000, as amended, which was filed pursuant to Section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon certain facilities. Transwestern states that the Amendment requests that the Commission modify the abandonment authorization granted for certain of the facilities in Docket No. CP94–751–000 by the Commission's July 27, 1995 Order Approving Contested Settlement, 72 FERC ¶ 61,085, to allow such facilities to be transferred to non-jurisdictional third parties, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Transwestern states that its original application in Docket No. CP94–751–000, requested authorization to abandon certain compressors, treater plants, meters, dehydration units and

associated facilities. According to Transwestern, it amended its application to set forth certain corrections and to reflect the sale to third parties of certain of the facilities, the determination that certain of the facilities already had been abandoned, and the determination that gas was flowing through certain wellhead facilities.

Transwestern proposed to abandon the facilities in the original application through removal or abandonment in place because such facilities were no longer used to useful in its operations, or were uneconomical or otherwise unnecessary for continued operation of its pipeline. It is stated that the order authorized abandonment of such facilities subject to Transwestern's compliance with certain environmental conditions set forth in Appendix D to the order.

Transwestern states that, currently, certain non-jurisdictional third parties seek to acquire some of those facilities for their operations. Accordingly, Transwestern requests that the Commission modify its order to provide that such facilities for which abandonment was granted may be transferred to third parties, and, in such case, Transwestern is not required to comply with the environmental conditions of Appendix D, which would apply if Transwestern abandoned in place or removed such facilities. Transwestern contends that such third parties are the same entities identified in the order as acquiring related facilities for which abandonment authorization was granted in Docket No. CP95–70–000: Continental Natural Gas Inc. and GPM Gas Corporation.

According to Transwestern, it would be economically wasteful for Transwestern to undertake the burden and expense of disposing of such facilities only to have third parties undertake the burden and expense of replacing them. Transwestern contends that the purpose of Appendix D is to protect the environment. However, in the case of the facilities the third parties wish to acquire, Transwestern argues that it would be much more disruptive to the environment to comply with Appendix D and remove such facilities, only to have the third parties reinstall them, than to simply convey the facilities to the third parties in the first place.

Given that abandonment already has been authorized for such facilities, Transwestern states that no other change to the order is required or proposed, in order to allow the transfer of such facilities rather than removal or abandonment in place under Appendix D. Transwestern states that it would receive no additional payment as the result of its transfer of such facilities and proposes that there would be no additional change in the accounting treatment for such facilities approved in the July 27, order.[1] Further, it is stated that such facilities would be subject to the default gathering contract applicable to the other related facilities transferred to third parties for which abandonment was authorized in Docket No. CP95–70–000.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 28, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transwestern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–696 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–2–M

[1] Transwestern states that, inasmuch as the accounting treatment for the abandoned assets is an integral part of the Settlement rates and revenues as approved in Docket No. RP95–271–000 and to the extent deemed necessary by the Commission, Transwestern requests waiver of the Commission's regulations in order to obtain the authorization requested herein with no change in the accounting treatment approved in the order.

[Docket No. CP97–173–000]

Truckline Gas Company; Notice of Application

January 8, 1997.

Take notice that on December 30, 1996, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP97–173–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon by transfer to PanEnergy Field Services, Inc. (Field Services), a wholly-owned subsidiary of PanEnergy Corp, under a transfer agreement dated December 20, 1996, certain pipeline and measuring facilities with appurtenances, located in Hidalgo, Brooks and Jim Wells Counties, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

By this application, Trunkline is seeking abandonment of approximately 105 miles of various diameter pipeline (ranging from 4 inches to 20 inches), measurement facilities and appurtenances, referred to as the South Texas Facilities, locate din Hidalgo, Brooks, and Jim Wells Counties, Texas. The South Texas Facilities are located upstream of Field Services' LaGloria Processing Plant in Jim Wells County, Texas, situated approximately 80 miles south of Trunkline's Beeville Compressor Station in Bee County, Texas.

Trunkline states that the utilization of its facilities is changing as a result of Order No. 636 and the required unbundling of its transportation and gathering rates together with its customers' elections to cease purchasing natural gas from Trunkline. Trunkline states that it is proposing to transfer the facilities to Field Services for operation on an open access, non-jurisdictional basis. Trunkline states that Field Services will assume all future investment, operational and economic responsibilities for these facilities.

Trunkline states that coincident with this application for abandonment authority, Field Services is filing a Petition for Declaratory Order [1] seeking an affirmative declaration that the

[1] Field Services has filed a related petition for declaratory order in Docket No. CP97–174–000.

facilities behind the LaGloria Processing Plant and their subsequent ownership and operation by Field Services are gathering and thus exempt from NGA jurisdiction under Section 1(b) of the NGA.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 29, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. if a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Trunkline to appear or be represented at the hearing.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 97–760 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–129–000]

Trunkline Gas Company; Notice of Informal Settlement Conference

January 8, 1997.

Take notice that an informal settlement conference will be convened in these proceedings on January 15, 1997 at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Marc G. Denkinger (202) 208–2215 or Lorna J. Hadlock (202) 208–0737.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–764 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–3092–000]

United American Energy Corp.; Notice of Issuance of Order

January 7, 1997.

United American Energy Corp. (United Energy) submitted for filing a rate schedule under which United Energy will engage in wholesale electric power and energy transactions as a marketer. United Energy also requested waiver of various Commission regulations. In particular, United Energy requested that the Commission grant blanket approval under 18 CFR Part 24 of all future issuances of securities and assumptions of liability by United Energy.

On January 3, 1997, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by United Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, United Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of United Energy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 3, 1997.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street NE., Washington, DC 20426.

Linwood A. Watson Jr.,

Acting Secretary.

[FR Doc. 97–694 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER97–445–000]

Washington Water Power Company; Notice of Filing

January 7, 1997.

Take notice that on December 10, 1996, Washington Water Power Company tendered for filing a Certificate of Concurrence in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 24, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–695 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG97–24–000, et al.]

Petroelectrica de Panama LDC, et al.; Electric Rate and Corporate Regulation Filings

January 7, 1997.

Take notice that the following filings have been made with the Commission:

1. Petroelectrica de Panama LDC

[Docket No. EG97–24–000]

On December 27, 1996, Petroelectrica de Panama LDC (''PEP''), with its address c/o ERI Services, Inc. International, 255 Main Street, Suite 500, Hartford, CT 06106, filed with the Federal Energy Regulatory Commission (''FERC'' or the ''Commission'') an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

PEP is a Cayman Island company that will be engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities to be located in Panama. The eligible facilities will consist of an approximately 53 MW diesel-fired electric generation project and related interconnection facilities. The output of the eligible facilities will be sold at wholesale.

Comment date: January 24, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Quezon Power (Philippines), Limited Co.

[Docket No. EG97–25–000]

On December 27, 1996, Quezon Power (Philippines), Limited Co. (''Quezon'') filed with the Federal Energy Regulatory Commission (''Commission'') an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations. Quezon states that its sole business purpose is to own a generation facility and associated transmission facilities (''the Facility'') to be located in the Quezon Province in the Republic of the Philippines. Quezon states that the Facility is an ''eligible facility'' under PUHCA and that Quezon will be engaged directly and exclusively in the business of owning an eligible facility and selling electric energy at wholesale. Quezon therefore concludes that it qualifies as an EWG.

Comment date: January 24, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Ogden Philippines Operating, Inc.

[Docket No. EG97–26–000]

On December 27, 1996, Ogden Philippines Operating, Inc. (''Ogden POI'') filed with the Federal Energy Regulatory Commission (''Commission'') an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations. Ogden POI states that its sole business purpose is to operate a generation facility and associated transmission facilities (''the Facility'') to be located in the Quezon Province in the Republic of the Philippines. Ogden POI states that the Facility is an ''eligible facility'' under PUHCA and that Ogden POI will be engaged directly and exclusively in the business of operating an eligible facility and, through the agency relationship imputed for purposes of EWG status from Ogden POI's Operation and Maintenance Agreement with the owner of the Facility, in selling electric energy at wholesale. Ogden POI therefore concludes that it qualifies as an EWG.

Comment date: January 24, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. National Gas & Electric L.P., Heartland Energy Services Inc., PanEnergy Power Services, Inc., and Industrial Gas & Electric Services

[Docket No. ER90–168–029, Docket No. ER94–108–010, Docket No. ER95–7–012, and Docket No. ER95–257–008 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On December 9, 1996, National Gas & Electric L.P. filed certain information as required by the Commission's order dated March 20, 1990, in Docket No. ER90–168–000.

On December 13, 1996, Heartland Energy Services Inc. filed certain information as required by the Commission's order dated August 9, 1994, in Docket No. ER94–108–000.

On December 4, 1996, PanEnergy Power Services, Inc. filed certain information as required by the Commission's order dated December 16, 1994, in Docket No. ER95–7–000.

On December 17, 1996, Industrial Gas & Electric Services, Inc. filed certain information as required by the Commission's order dated February 1, 1995, in Docket No. ER95–257–000.

5. American Energy Service Corp.

[Docket No. ER96–3091–000]

Take notice that on December 13, 1996, American Energy Service Corp. tendered for filing a Notice of Withdrawal of Application for Power Marketing Status.

Comment date: January 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Washington Water Power Company

[Docket No. ER96–3152–000]

Take notice that on December 18, 1996, Washington Water Power Company tendered for an amendment in the above-referenced docket.

Comment date: January 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Wisconsin Electric Power Company

[Docket No. ER97–902–000]

Take notice that on December 23, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement and a Non-Firm Transmission Service Agreement between itself and Coral Power, L.L.C. The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff. The Transmission Service Agreement allows Coral power, L.L.C. to receive non-firm transmission service under Wisconsin Electric's FERC Electric Tariff, Original Volume No. 7.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Coral Power, L.L.C., the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Great Bay Power Corporation

[Docket No. ER97–903–000]

Take notice that on December 23, 1996, Great Bay Power Corporation (Great Bay), tendered for filing a service agreement between CNG Power Services Corporation and Great Bay for service under Great Bay's revised Tariff for Short Term Sales. This Tariff was accepted for filing by the Commission on May 17, 1996, in Docket No. ER96–726–000. The revised form of service agreement is proposed to be effective December 17, 1996.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER97–905–000]

Take notice that on December 23, 1996, Pacific Gas and Electric Company (PG&E), tendered for filing, both for itself and on behalf of Southern California Edison (SCE) and San Diego Gas & Electric Company (SDG&E) a request for termination of the California

Power Pool Agreement between PG&E, SDG&E and SCE, originally dated July 20, 1964 (Pool Agreement). The Pool Agreement was initially accepted by the Commission by letter dated August 16, 1965 and designated as PG&E Rate Schedule FPC No. 27, SDG&E Rate Schedule FPC No. 13 and SCE Rate Schedule FPC No. 24.

The Pool Agreement provides for coordination and interchange arrangements for power pooling transactions including the sale and exchange of electric capacity and energy between the parties.

Copies of this filing have been served upon and SCE, SDG&E and the California Public Utilities Commission.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. American Electric Power Service Corporation

[Docket No. ER97–906–000]

Take notice that on December 23, 1996, American Electric Service Corporation (AEPSC), submitted for filing with the Commission, an Amendment to the AEP Companies' Power Sales Tariff, proposing minor corrections and clarifications, some of which are made at the request of the Commission's Staff. The Power Sales Tariff has previously been accepted and designated as AEP Companies' FERC Electric Tariff First Revised Volume No. 2.

A copy of the filing was served upon all customers and affected State Utility Regulatory Commissions.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. American Electric Power Service Corporation

[Docket No. ER97–907–000]

Take notice that on December 23, 1996, the American Electric Power Service Corporation (AEPSC), tendered for filing executed service agreements with numerous parties, under the AEP Companies' Power Sales Tariff. The Power Sales Tariff was accepted for filing effective October 1, 1995, and, has been designated AEP Companies FERC Electric Tariff First Revised Volume No. 2.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Central Vermont Public Service Corporation

[Docket No. ER97–908–000]

Take notice that on December 23, 1996, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreements with Central Vermont Public Service Corporation, Power Supply and Baltimore Gas & Electric Company in the above-mentioned dockets. The tariff provides for the sale by Central Vermont of transmission services pursuant to the Company's FERC Transmission Tariff No. 6.

Central Vermont requests the Commission to waive its notice of filing requirement to permit the amendment to become effective according to its terms. In support of its requests Central Vermont states that allowing the Service Agreement to become effective as provided will enable the Company and its customers to achieve mutual benefits.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Delmarva Power & Light Company

[Docket No. ER97–909–000]

Take notice that on December 23, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing the above-captioned docket an amendment to its Market Rate Sales Tariff, FERC Electric Tariff, Original Volume No. 14. Delmarva seeks waiver of notice to permit this amendment to take effect as of December 31, 1996.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Delmarva Power & Light Company

[Docket No. ER97–910–000]

Take notice that on December 24, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing service agreements providing for firm point-to-point transmission service to Duke/ Louis Dreyfus pursuant to Delmarva's open access transmission tariff.

Delmarva states that a copy of the filing was provided to Duke/Louis Dreyfus.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Delmarva Power & Light Company

[Docket No. ER97–911–000]

Take notice that on December 24, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing a service agreement providing for firm point-to-point transmission service to the City of Dover pursuant to Delmarva's open access transmission tariff.

Delmarva states that copies of the filing were provided to the City of Dover and its agent, Duke/Louis Dreyfus.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Delmarva Power & Light Company

[Docket No. ER97–912–000]

Take notice that on December 24, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing its Standard of Conduct Procedures for Open Access Transmission service as required by Commission Order No. 889.

Delmarva states that these procedures will be fully implemented on or before January 3, 1997.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Connecticut Yankee Atomic Power Company

[Docket No. ER97–913–000]

Take notice that on December 24, 1996, Connecticut Yankee Atomic Power Company (Connecticut Yankee), tendered for filing, pursuant to § 205 of the Federal Power Act and 35.13 of the Commission's Regulations, an amendment to the power contracts for the sale of electricity for resale to ten New England utilities. Connecticut Yankee states that the amendment is designed to clarify the obligations of the purchasing utilities following the decision to cease power production at Connecticut Yankee's nuclear generating plant. Connecticut Yankee's filing also includes adjustments to amounts being amortized for unburned nuclear fuel, materials and supplies and a revised schedule of decommissioning charges, based on a new study of decommissioning costs.

Connecticut Yankee states that, although the decommissioning charges would increase by approximately $10.9 million annually, the overall rate change proposed would result in a decrease of approximately $54.7 million for 1997, measured against the results of calendar 1995 which is Period I.

Connecticut Yankee states that copies of its filing have been provided to its wholesale customers and to state regulatory commissions in Connecticut, Vermont, New Hampshire, Massachusetts, Maine and Rhode Island.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Northeast Utilities Service Company

[Docket No. ER97–914–000]

Take notice that on December 24, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide Non-Firm Point-to-Point Transmission Service to Electric Clearinghouse, Inc. under the NU System Companies' Open Access Transmission Service Tariff No. 8.

NUSCO states that a copy of this filing has been mailed to Electric Clearinghouse, Inc.

NUSCO requests that the Service Agreement become effective January 3, 1997.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Florida Power Corporation

[Docket No. ER97–915–000]

Take notice that on December 24, 1996, Florida Power Corporation (Florida Power), tendered for filing a service agreement providing for non-firm point-to-point service to Central Power & Lime, Inc., pursuant to its open access transmission tariff (the T–6 Tariff). Florida Power requests that the Commission waive its notice of filing requirements and allow the agreement to become effective on December 24, 1996.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company

[Docket No. ER97–916–000]

Take notice that on December 24, 1996, GPU Service, Inc. (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (GPU Energy), filed an executed Service Agreement between GPU and Virginia Electric and Power Company (VEPCO). This Service Agreement specifies that VEPCO has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU and VEPCO to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company

[Docket No. ER97–917–000]

Take notice that on December 24, 1996, GPU Service, Inc. (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (GPU Energy), filed an executed Service Agreement between GPU and Illinova Power Marketing, Inc. (IPM), dated December 20, 1996. This Service Agreement specifies that IPM has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.,* Docket No. ER95–276–000 and allows GPU and IPM to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of December 20, 1996 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Southern Company Services, Inc.

[Docket No. ER97–918–000]

Take notice that on December 24, 1996, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed one (1) service agreement between SCS, as agent for Southern Companies, and Southern Wholesale Energy, a department of SCS, as agent for Southern Companies for non-firm point-to-point transmission service under Part II of the Open Access transmission Tariff of Southern Companies.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. The Toledo Edison Company

[Docket No. ER97–919–000]

Take notice that on December 24, 1996, The Toledo Edison Company (TE), tendered for filing with the Federal Energy Regulatory Commission agreements between TE and Baltimore Gas & Electric Co.; Northern Indiana Public Service Co.; Niagara Mohawk Power Corp.; WPS Energy Services, Inc.; Rainbow Energy Marketing Corp.; Midcon Power Services Corp.; and AYP Energy, Inc.

TE requests that the agreements be allowed to become effective on December 30, 1996.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. The Cleveland Electric Illuminating Company

[Docket No. ER97–920–000]

Take notice that on December 24, 1996, The Cleveland Electric Illuminating Company (CEI), tendered for filing with the Federal Energy Regulatory Commission agreements between CEI and Baltimore Gas & Electric Co.; Northern Indiana Public Service Co.; Niagara Mohawk Power Corp.; WPS Energy Services, Inc.; Rainbow Energy Marketing Corp.; Midcon Power Services Corp.; and AYP Energy, Inc.

CEI requests that the agreements be allowed to become effective on December 30, 1996.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Western Resources, Inc.

[Docket No. ER97–921–000]

Take notice that on December 24, 1996, Western Resources, Inc., tendered for filing, a notice of cancellation of Service Schedule C—Economy Energy Service, to Western Sources' Rate Schedule FPC No. 6, Electric Interconnection Contract between The Kansas Gas and Electric Company (KGE), and Western Resources, Inc. (formerly The Kansas Power and Light

Company). Western Resources requests that Service Schedule C be canceled as of March 1, 1997.

Notice of the proposed cancellation has been served upon KGE and the Kansas Corporation Commission.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. The Dayton Power and Light Company

[Docket No. ER97–922–000]

Take notice that on December 24, 1996, The Dayton Power and Light Company (Dayton), submitted service agreements establishing Wisconsin Electric Power, LG&E Power Marketing, Inc., Louisville Gas & Electric Co., The Baltimore Gas & Electric Company as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of this filing were served upon Wisconsin Electric Power, LG&E Power Marketing, Inc., Louisville Gas & Electric Co., The Baltimore Gas & Electric Company and the Public Utilities Commission of Ohio.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Western Resources, Inc.

[Docket No. ER97–923–000]

Take notice that on December 24, 1996, Western Resources, Inc., on behalf of its wholly owned subsidiary Kansas Gas and Electric Company (KGE), is a notice of cancellation of Service Schedule C—Economy Energy Service and Service Schedule RE—Replacement Energy Service, designated by the Commission as Supplement Nos. 3 and 10 respectively to KGE's Rate Schedule FPC No. 97.

Notice of the proposed cancellation has been served upon Public Service Company of Oklahoma, the Oklahoma Corporation Commission, and the Kansas Corporation Commission.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–924–000]

Take notice that on December 26, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Coral Power, L.L.C. (Coral).

Con Edison states that a copy of this filing has been served by mail upon Coral.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Delmarva Power & Light Company

[Docket No. ER97–925–000]

Take notice that on December 24, 1996, Delmarva Power & Light Company, tendered for filing a service agreement to provide firm energy to Old Dominion Electric Cooperative for a period of one year beginning January 1, 1997.

Delmarva Power seeks authorization to provide service under this service agreement and pursuant to its FERC Electric Tariff Volume No. 14 market-based rate authorization allowed in Docket No. ER96–2571–000 and the Commission's direction therein that a 205 filing be made prior to commencing market-based rate sales service to customers located on the Delmarva peninsula.

Copies of the filing were served upon the customer, the Delaware Public Service Commission, the Maryland Public Service Commission and the Virginia State Corporation Commission.

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Richard B. Priory

[Docket No. ID–2983–000]

Take notice that on December 20, 1996, Richard B. Priory filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, President and Chief Operating Officer, Duke Power Company

Director, NationsBank Corporation

Comment date: January 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–697 Filed 1–10–97; 8:45 am]

BILLING CODE 6717–01–P

Sunshine Act Meetings

JANUARY 8, 1997.

THE FOLLOWING NOTICE OF MEETING IS PUBLISHED PURSUANT TO SECTION 3(A) OF THE GOVERNMENT IN THE SUNSHINE ACT (PUB. L. NO. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: FEDERAL ENERGY REGULATORY COMMISSION

DATE AND TIME: JANUARY 15, 1997 10:00 A.M.

PLACE: ROOM 2C, 888 FIRST STREET, N.E., WASHINGTON, D.C. 20426.

STATUS: OPEN

MATTERS TO BE CONSIDERED: AGENDA

* Note—ITEMS LISTED ON THE AGENDA MAY BE DELETED WITHOUT FURTHER NOTICE.

CONTACT PERSON FOR MORE INFORMATION: LOIS D. CASHELL, SECRETARY, TELEPHONE (202) 208–0400. FOR A RECORDING LISTING ITEMS STRICKEN FROM OR ADDED TO THE MEETING, CALL (202) 208–1627.

THIS IS A LIST OF MATTERS TO BE CONSIDERED BY THE COMMISSION. IT DOES NOT INCLUDE A LISTING OF ALL PAPERS RELEVANT TO THE ITEMS ON THE AGENDA; HOWEVER, ALL PUBLIC DOCUMENTS MAY BE EXAMINED IN THE REFERENCE AND INFORMATION CENTER.

CONSENT AGENDA—HYDRO 665TH MEETING—JANUARY 15, 1997, REGULAR MEETING (10:00 A.M.)

CAH–1.
DOCKET# P–2315, 005, SOUTH CAROLINA ELECTRIC & GAS COMPANY

CAH–2.
DOCKET# P–2381, 037, PACIFICORP

CAH–3.
DOCKET# P–2583, 005, ROCHESTER GAS AND ELECTRIC CORPORATION

CAH–4.
OMITTED

CAH–5.
DOCKET# P–9222, 005, NIAGARA MOHAWK POWER CORPORATION
OTHER#S P–9222, 007, NIAGARA MOHAWK POWER CORPORATION

CAH–6.
DOCKET# P–10813, 026, CITY OF SUMMERSVILLE, WEST VIRGINIA

CAH–7.
DOCKET# N–2, 000, SECOND REPORT TO CONGRESS ON APPROPRIATE-

NESS OF GOVERNMENT DAM ANNUAL CHARGES, ET AL.
CAH–8.
DOCKET# P–2149, 059, PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY, WASHINGTON

CONSENT AGENDA—ELECTRIC

CAE–1.
DOCKET# ER96–3113, 000, COMMONWEALTH EDISON COMPANY
CAE–2.
DOCKET# ER97–606, 000, FLORIDA POWER CORPORATION
OTHER#S ER97–515, 000, FLORIDA POWER CORPORATION
ER97–516, 000, FLORIDA POWER CORPORATION
CAE–3.
DOCKET# ER97–556, 000, BRITISH COLUMBIA POWER EXCHANGE CORPORATION
OTHER#S EL95–62, 000, BRITISH COLUMBIA POWER EXCHANGE CORPORATION
CAE–4.
OMITTED
CAE–5.
DOCKET# EC96–13, 000, IES UTILITIES, INC., INTERSTATE POWER COMPANY AND WISCONSIN POWER & LIGHT COMPANY, ET AL.
OTHER#S ER96–1236, 000, IES UTILITIES, INC., INTERSTATE POWER COMPANY AND WISCONSIN POWER & LIGHT COMPANY, ET AL.
ER96–2560, 000, IES UTILITIES, INC., INTERSTATE POWER COMPANY AND WISCONSIN POWER & LIGHT COMPANY, ET AL.
OA96–133, 000, INTERSTATE ENERGY CORPORATION

CONSENT AGENDA—GAS AND OIL

CAG–1.
DOCKET# PR97–2, 000, TECO PIPELINE COMPANY
CAG–2.
DOCKET# RP96–333, 001, NATIONAL FUEL GAS SUPPLY CORPORATION
OTHER#S RP96–333, 000, NATIONAL FUEL GAS SUPPLY CORPORATION
CAG–3.
DOCKET# RP96–366, 002, FLORIDA GAS TRANSMISSION COMPANY
CAG–4.
OMITTED
CAG–5.
OMITTED
CAG–6.
DOCKET# RP96–337, 001, PACIFIC GAS TRANSMISSION COMPANY
CAG–7.
DOCKET# RP97–195, 000, VIKING GAS TRANSMISSION COMPANY
CAG–8.
OMITTED
CAG–9.
DOCKET# RP91–143, 037, GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
CAG–10.
DOCKET# RP96–81 ET AL., 001, CARNEGIE INTERSTATE PIPELINE COMPANY
CAG–11.
DOCKET# RP97–14, 001, MIDWESTERN GAS TRANSMISSION COMPANY
CAG–12.
DOCKET# RP97–61, 000, NORAM GAS TRANSMISSION COMPANY
CAG–13.
DOCKET# RP97–62, 000, WYOMING INTERSTATE COMPANY, LTD.
CAG–14.
DOCKET# RP97–63, 000, COLORADO INTERSTATE GAS COMPANY
CAG–15.
DOCKET# RP97–73, 000, MISSISSIPPI RIVER TRANSMISSION CORPORATION
CAG–16.
DOCKET# PR96–14, 000, BRIDGELINE GAS DISTRIBUTION LLC
CAG–17.
DOCKET# RP97–42, 002, TRUNKLINE GAS COMPANY
CAG–18.
OMITTED
CAG–19.
OMITTED
CAG–20.
DOCKET# RP97–32, 002, EASTERN SHORE NATURAL GAS COMPANY
OTHER#S CP96–128, 002, EASTERN SHORE NATURAL GAS COMPANY
CAG–21.
DOCKET# RP92–149, 007, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–22.
DOCKET# OR97–2, 000, ULTRAMAR INC. V. SFPP, L.P.
CAG–23.
DOCKET# RP97–36, 000, ENERGY MANAGEMENT CORPORATION V. PEOPLES GAS SYSTEM, INC.
CAG–24.
OMITTED
CAG–25.
OMITTED
CAG–26.
DOCKET# CP96–213, 000, COLUMBIA GAS TRANSMISSION CORPORATION
OTHER#S CP90–644, 003, COLUMBIA GAS TRANSMISSION CORPORATION
CP96–213, 001, COLUMBIA GAS TRANSMISSION CORPORATION
CP96–559, 000, TEXAS EASTERN TRANSMISSION CORPORATION
CAG–27.
DOCKET# CP96–339, 000, TOTAL PEAKING SERVICES, L.L.C.
CAG–28.
DOCKET# CP96–770, 000, COASTAL STATES GAS TRANSMISSION COMPANY
CAG–29.
DOCKET# CP96–779, 000, K N INTERSTATE GAS TRANSMISSION COMPANY
CAG–30.
DOCKET# CP96–495, 000, GPM GAS CORPORATION V. CONTINENTAL NATURAL GAS, INC.
CAG–31.
DOCKET# CP96–577, 000, PLANT OWNERS V. CONTINENTAL NATURAL GAS, INC.
CAG–32.
OMITTED
CAG–33.
DOCKET# OR97–1, 000, RIO GRANDE PIPELINE COMPANY
CAG–34.
DOCKET# RM96–14, 003, SECONDARY MARKET TRANSACTIONS ON INTERSTATE NATURAL GAS PIPELINES
OTHER#S RP96–352, 002, TRANSWESTERN PIPELINE COMPANY, PACIFIC GAS AND ELECTRIC COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY
RP96–353, 001, NATIONAL FUEL GAS DISTRIBUTION CORPORATION
RP96–355, 001, COLUMBIA GULF TRANSMISSION CORPORATION
RP96–356, 001, COLUMBIA GAS TRANSMISSION COMPANY
RP96–360, 001, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
RP96–368, 001, WASHINGTON GAS LIGHT COMPANY
RP96–369, 001, BROOKLYN UNION GAS COMPANY
RP96–370, 001, KERN RIVER GAS TRANSMISSION COMPANY
RP96–371, 001, CENTRAL HUDSON GAS & ELECTRIC CORPORATION
RP96–372, 001, MOUNTAINEER GAS COMPANY
RP96–373, 001, BOSTON GAS COMPANY
RP96–379, 001, ARIZONA PUBLIC SERVICE COMPANY
RP96–382, 001, ORANGE AND ROCKLAND UTILITIES, INC.

HYDRO AGENDA

H–1.
RESERVED

ELECTRIC AGENDA

E–1.
RESERVED

OIL AND GAS AGENDA

I.
PIPELINE RATE MATTERS
PR–1.
RESERVED
II.
PIPELINE CERTIFICATE MATTERS
PC–1.
RESERVED

Lois D. Cashell,

Secretary.

[FR Doc. 97–842 Filed 1–9–97; 11:56 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5675–8]

Agency Information Collection Activities: Proposed Collection; Comment Request; Reporting Requirements Under EPA's Voluntary WasteWi$e Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Reporting Requirements Under EPA's WasteWi$e Program (OMB Control No. 2050–0139; EPA ICR No. 1698). This is a request for extension of a currently approved information collection. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before March 14, 1997.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–96–WWIP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–96–WWIP–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703–603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the Federal Register or in a response to comments document placed in the official record. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

FOR FURTHER INFORMATION CONTACT: Lynda Wynn at 401 M St., SW, (5306W), Washington DC 20460, or at 703–308–7273, FAX 703–308–8686, wynn.lynda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Reporting Requirements Under EPA's Voluntary WasteWi$e Program (OMB No. 2050–0139. EPA ICR No. 1698). Expiring May 31, 1997.

Affected entities: Entities potentially affected by this action are those businesses, institutions, and government agencies that sign up to participate in EPA's WasteWi$e program.

Abstract: EPA's voluntary WasteWi$e program encourages businesses and other organizations to reduce solid waste through waste prevention, recycling, and the purchase or manufacture of recycled products. WasteWi$e participants include partners, which commit to implementing waste reduction activities of their choice, and endorsers which promote the WasteWi$e program and waste reduction to their members. Endorsers, which are typically trade associations or other membership-based associations, submit only a one-page form, the Endorser Registration Form. This form identifies the organization, the principal contact, and the activities to which the Endorser commits. Partners fill out three forms as follows. The Partner Registration Form identifies the organization and the facilities that will participate in WasteWi$e, and requires the signature of a senior official that can commit the organization to the program. Each partner develops its own waste reduction goals and submits a one-page Goals Identification Form to EPA each year. Partners also report annually on the progress made toward achieving these goals in the Annual Reporting Form, estimating amounts of waste prevented and recyclables collected, and describing buy-recycled activities.

The EPA WasteWi$e program uses the submitted information to (1) identify and recognize outstanding waste reduction achievements by individual organizations, (2) compile aggregate results that indicate overall accomplishments of WasteWi$e partners, (3) identify cost-effective waste reduction strategies to share with other organizations, and (4) identify topics on which to develop assistance and information efforts.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Burden Statement: The respondent burden for this collection is estimated to average 24 hours per response for the Endorser Registration Form; 10 hours per response for the Partner Registration Form; 40 hours per response for the first year's Goals Identification Form; 20 hours per response for each subsequent year's Goals Identification Form; and 55.5 hours per response for the Annual Reporting Form. This results in an estimated one-time respondent burden of 24 hours for Endorsers, and an annual Partner respondent burden of 105.5 hours in the first year and 75.5 hours each subsequent year. The estimated number of respondents is 200 in year 1; 300 in year 2; and 400 in year 3. Estimated total annual burden on respondents is 28,500 hours in year 1; 29,850 hours in year 2; and 37,650 hours in year 3.

Burden estimates include the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with

any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: December 27, 1996.

Michael Shapiro,

Director, Office of Solid Waste.

[FR Doc. 97–746 Filed 1–10–97; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5676–1]

Notice of Public Meeting on the National Performance Measures Strategy for Enforcement and Compliance Assurance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting to solicit suggestions for innovative, supplemental measures of enforcement and compliance assurance program performance; develop a common understanding with partners and stakeholders about a set of national measures and the steps necessary to implement them (based on the state of national compliance); and discuss how to carry out an implementation plan to put the new set of measures into practice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a public meeting on Monday, February 3, 1997, in Washington, D.C., which will be devoted to the National Performance Measures Strategy for Enforcement and Compliance Assurance. The focus of the meeting will be to hear presentations and statements from a cross-section of stakeholders about innovative approaches to measuring enforcement and compliance assurance program performance.

DATES: The meeting date will take place on Monday, February 3, 1997, from 8:30 a.m to 5:00 p.m.

ADDRESSES: The public meeting will take place on Monday, February 3, 1997, at the Holiday Inn Historic District Alexandria, 625 First Street, Alexandria, Virginia, 22314 (703–548–6300).

FOR FURTHER INFORMATION CONTACT: James McDonald, U.S. Environmental Protection Agency, Office of Compliance, 401 M Street, S.W. (2201A), Washington, D.C., 20460; telephone (202) 564–4043, fax (202) 501–0701.

SUPPLEMENTARY INFORMATION:

I. Background

For many years, EPA has counted annual enforcement outputs (e.g., inspections conducted, number of civil and criminal cases, penalties assessed) as the predominant measure of performance for the enforcement and compliance assurance program. While these outputs will continue to be used as an important measure of environmental enforcement, EPA seeks additional measures to assess the status and trends of regulatory compliance, as well as environmental improvements resulting from enforcement and compliance assurance activities. This need was recognized during the enforcement reorganization in 1993, and a commitment was made during that process to develop additional measures. In addition, the requirements of the Government Performance and Results Act (GPRA) offer an opportunity to review and improve performance measures.

For almost three years, the Office of Enforcement and Compliance Assurance (OECA) has been taking steps to improve its performance measures for enforcement and compliance assurance activities. During that time, OECA: (1) convened a Measures of Success Work Group comprised of EPA and Regional officials, (2) developed and implemented a Case Conclusion Data Sheet (CCDS) to gather new types of information about completed cases, (3) developed and implemented a reporting measure for compliance assistance activities, and (4) realigned single-media data bases to enable reporting of enforcement data by industry sector.

Through these steps, OECA has made progress in developing an enhanced set of performance measures. Specifically, OECA is now able to supplement traditional enforcement output measures with other measures, including: (1) actions taken by violators to return to compliance, (2) quantitative environmental impact and qualitative environmental benefit of those actions, (3) types, amounts, and impact of compliance assistance activities, and (4) industry-specific compliance rates. These elements were fully operational together for the first time in FY 96, and the results of these efforts are being compiled in a national accomplishments report. However, OECA recognizes further improvements can, and should, be made with regard to reporting the state of national compliance and trends of environmental enforcement and compliance.

The purpose of this notice is to reach out for new ideas from EPA's regulatory partners (i.e., State, Tribal, and Local governments) and interested stakeholders. As described below, EPA plans to initiate this effort with a national meeting.

II. The National Performance Measures Strategy

The purpose of the National Performance Measures Strategy is to develop and implement an enhanced set of performance measures for the enforcement and compliance assurance program. The Strategy includes: (1) soliciting new ideas from regulatory partners and stakeholders for more meaningful and sophisticated measures of program performance, (2) developing a common understanding with regulatory partners and stakeholders about a set of national measures and the short- and long-term steps necessary to implement them, and (3) carrying out an implementation plan to put the new set of measures into practice.

The Strategy includes the following elements:

1. Conduct dialogue with regulatory partners, including senior EPA Headquarters and Regional managers, State officials, and a Department of Justice representative, to assist with implementation of the Strategy
2. Hold initial public meetings to present objectives of the Strategy and key measurement issues and hear presentations and statements from a cross-section of stakeholders (by March 1, 1997)
3. Meet with sets of stakeholders during FY 97 to discuss ideas and proposals for improved measures and/or conduct meetings of mixed stakeholders in various locations (between March and June 1997)
4. Meet with other Federal regulatory and law enforcement agencies to learn about new performance measurement approaches being used in enforcement and compliance programs (between March and June 1997)
5. Hold a ''capstone'' conference with a cross-section of stakeholders at the end of the outreach process to identify common understandings, areas of agreement, and unresolved issues (by mid-September 1997)
6. Develop a report of findings and an implementation plan with a schedule (by October 1, 1997)
7. Implement new ideas and approaches in accordance with the schedule.

III. Agenda/Focus Topics for Public Meeting

EPA is interested in hearing and considering ideas from regulatory partners and a wide range of

stakeholders regarding the state of compliance and additional ways to measure the performance of EPA's enforcement and compliance assurance program. EPA accepts the idea that its current approach of counting annual enforcement outputs needs to be supplemented by other approaches that measure improvements in environmental quality and the state of compliance. As such, the Agency wants to focus the outreach effort on identifying and implementing new approaches rather than on the limitations of its current approach.

Stakeholders and regulatory partners are asked to focus on the following issues of special interest to EPA:

1. What innovative approaches are being used (or could be used) by other environmental agencies, other regulatory agencies, and law enforcement agencies to measure the effects of their enforcement and compliance assurance programs?

2. What innovative approaches are being used by regulated facilities, companies, or trade groups and associations to measure the effect of their efforts to achieve and maintain compliance and protect the environment?

3. What can EPA use to measure the impact of its enforcement and compliance assurance program in low-income/ minority population communities?

4. How can EPA measure industry performance in complying with environmental laws and regulations?

5. How can EPA measure the deterrent effect of its enforcement-related activities, including conducting inspections, taking enforcement actions, and publicizing those actions?

6. How can EPA measure the impact of compliance assistance activities and compliance incentives, such as its audit and self-disclosure policy?

IV. Information for Participants

Stakeholders and Tribal, State, and Local entities are encouraged to offer ideas and proposals through submission of written comments, participation in the public meeting organized by EPA, or both. Persons interested in speaking, presenting information, or otherwise expressing comments at this meeting should send or fax their name, affiliation, phone number, topic, and a brief statement describing their presentation to Michelle Angelich, Science Applications International Corporation, 1710 Goodridge Drive, MS 1–11–8, McLean, Virginia, 22102; telephone 703–821–4432, fax 703–903–1373 by January 24, 1997. Persons wishing to submit pre-filed testimony may also send or fax such material to Ms. Angelich. Speakers will be notified of their time slots or panel assignments once the final format is determined. This meeting will be open to the public as space permits, and a transcript of the proceedings will be prepared.

Dated: January 7, 1997.

Steven A. Herman,

Assistant Administrator, Office of Enforcement and Compliance Assurance.

[FR Doc. 97–745 Filed 1–10–97; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5675–6]

Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Human Exposure and Health Subcommittee (HEHS) of the Science Advisory Board's (SAB) Integrated Risk Project will hold a public teleconference on Wednesday, January 29, 1997, from 3:00 p.m. to 5:00 p.m. (Eastern Standard Time). The teleconference will be hosted in the SAB Conference Room 2103 of the Mall, U.S. Environmental Protection Agency Headquarters Building at 401 M Street SW, Washington, DC 20460. For easy access, members of the public should use the EPA entrance next to the Safeway.

Purpose of the Meeting—The main purpose of the meeting is plan future directions and activities for the Subcommittee, particularly on the topic of the feasibility of producing a ranking of human health risks. The Subcommittee's activities are part of an SAB project to update the 1990 SAB report, Reducing Risk: Setting Priorities and Strategies for Environmental Protection.

A limited number of telephone lines will be available for use by members of the public.

For Further Information—Members of the public desiring additional information concerning the teleconference or who wish to submit comments should contact Mr. Samuel Rondberg, Designated Federal Officer for the HEHS, Science Advisory Board (1400), U.S. EPA, 401 M Street, SW, Washington, DC 20460; by telephone at (202)260–2559; by fax at (202) 260–7118 or via the INTERNET at: rondberg.sam@epamail.epa.gov. After January 16, 1996, copies of the draft meeting agenda will be available from Ms. Mary Winston at (202) 260–8414, by fax at (202) 260–7118, and by INTERNET at: winston.mary@epamail.epa.gov.

Information regarding how to access the teleconference is available by contacting Ms. Winston at the above numbers.

Members of the public who wish to make a brief oral presentation to the Committee must contact Mr. Rondberg in writing by letter, by fax, or by INTERNET (at INTERNET address above) no later than 12 noon (Eastern Standard Time) Thursday, January 23, 1997, in order to be included on the Agenda. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. Oral comments will be limited to five minutes per person.

Dated: January 13, 1997.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 97–747 Filed 1–10–97; 8:45 am]

BILLING CODE 6560–50–P

[FRL 5674–5]

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given that a proposed prospective purchaser agreement associated with the MRM Superfund Site, located in Sikeston, Missouri, was executed by the Agency on November 26, 1996, and concurred upon by the United States Department of Justice on November 18, 1996. This agreement is subject to final approval after the comment period. The Prospective Purchaser Agreement would resolve certain potential EPA claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1996 (''CERCLA''), against North Ridge Homes, Inc., the prospective purchaser (''the purchaser'').

The settlement would require the purchaser to pay the EPA the sum of $20,000, within thirty days after the date upon which Settling Respondent acquires title to the Property. The purchaser must record a deed restriction prohibiting use of the Property for residential purposes or for any purpose that could reasonably be expected to attract children, including, but not

limited to, schools, child care centers, playgrounds, parks, and picnic areas. In addition, the purchaser agrees to provide access to the EPA, its authorized officers, employees, representatives, and all other persons performing response actions at the Site under federal law.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

DATES: Comments must be submitted on or before February 12, 1997.

ADDRESSES: The proposed settlement is available for public inspection at the U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. A copy of the proposed agreement may be obtained from Jeffrey Weatherford, Remedial Project Manager, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. Comments should refer to the ''Agreement and Covenant Not to Sue Re: MRM Superfund Site'' and should be forwarded to Jeffrey Weatherford, Remedial Project Manager, at the above address.

FOR FURTHER INFORMATION CONTACT: David Cozad, Senior Associate Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7587.

Dated: December 30, 1996.

William Rice,

Acting Regional Administrator.

[FR Doc. 97–644 Filed 1–10–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

January 3, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarify of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments March 14, 1997.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0580.

Title: 47 CFR 76.504 Limits on carriage of vertically integrated programming.

Type of Review: Extension of existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,500.

Estimated Time Per Response: 15 hours.

Total Annual Burden: 22,500 hours.

Cost to Respondents: $7,500. ($5 per respondent for photocopying and administrative expenses associated with recordkeeping.)

Needs and Uses: 47 CFR 76.504 requires cable operators to maintain records regarding the nature and extent of their attributable interests in all video programming services as well as information regarding their carriage of such vertically integrated video programming services on cable systems in which they also have an attributable interest. These records must be maintained in operators' public files for a period of 3 years. The records are to be made available to members of the public, local franchising authorities and the Commission on reasonable notice and during regular business hours. The records will be reviewed by local franchising authorities and the Commission to monitor compliance with channel occupancy limits in respective local franchise areas.

In 1993, the Commission's initial estimate of the burden of complying with this information collection requirement incorrectly based the number of respondents on the number of community units in the country, instead of the number of cable operators. The number of respondents was thus estimated to be 31,000. Recent publicly available information on hand in the Commission indicates that there are currently 1,468 existing cable operators. To adjust for prospective new market entries, we therefore have used the number 1,500 in our estimate of the number of respondents impacted by this collection.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–669 Filed 1–10–97; 8:45 am]

BILLING CODE 6712–01–P

Notice of Public Information Collections Being Reviewed by FCC for Extension Under Delegated Authority 5 CFR 1320 Authority, Comments Requested

January 3, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology.

The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

DATES: Written comments should be submitted on or before March 14, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0582.

Title: 47 CFR 76.1302 Adjudicatory proceedings.

Type of Review: Extension of existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 36. We estimate there is 12 complaint proceedings initiated per year. Each complaint proceeding has two respondents; a petitioning party and an opposing party. In addition to these respondents, there are also an estimated 12 respondents that underwent the notification requirement and then were able to resolve their dispute without initiating a complaint proceeding. 12 complaints proceedings × 2 respondents each + 12 respondents that only undergo the notification requirement = 36 respondents.

Estimated Time Per Response: 1–20 hours. We estimate the average burden for completing the notification requirement to be 4 hours. We estimate the total burden for each party in undergoing all aspects of the complaint proceeding to be 20 hours. We estimate that 50% of entities will choose to use outside counsel for the complaint proceeding and will undergo a burden of 4 hours to coordinate information with outside counsel.

Total Annual Burden: 384 hours. 24 respondents will undergo the notification requirement × 4 hours = 96 hours. This will result in 12 complaint proceedings, each with 2 respondents. 12 (50%) of the respondents will undergo a burden of 20 hours for all aspects of the complaint proceeding. 12 × 20 hours = 240 hours. The remaining 12 (50%) respondents will use outside counsel for the complaint proceeding × 4 hours = 48 hours. 96 + 240 + 48 = 384.

Cost to Respondents: For the complaint proceeding, 12 respondents will use outside counsel at $150 per hour. 12 × 20 hours × $150 = $36,000.

Needs and Uses: 47 CFR 76.1302 provides that any aggrieved video programming vendor intending to file a carriage agreement complaint must first notify the potential defendant multichannel video programming distributor that it intends to file such a complaint with the Commission. If the parties cannot resolve the dispute, the complainant may file a complaint with the Commission. The data will be used by Commission staff to resolve disputes alleging a violation of the Commission's carriage agreement regulations. These regulations will prevent multichannel programming distributors from entering into carriage agreements with video programming vendors that are conditioned on concessions of various rights, including financial interests or exclusivity.

OMB Approval Number: 3060–0339.

Title: 47 CFR 78.11 Permissible service.

Type of Review: Extension of existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,200.

Estimated Time Per Response: We estimate that the 2,200 current CARS licensees will undergo an average recordkeeping burden of .5 hours complying with the requirements contained in 47 CFR 78.11(d)(2). 2,200 × .5 = 1,100 hours. We estimate that 100 CARS licensees will make notifications with an average burden of .5 hours in complying with the requirements contained in 47 CFR 78.11(e).
100 × .5 = 50 hours.

Total Annual Burden: 1,150 hours. (1,100 + 50).

Cost to Respondents: $4,500. ($2 per respondent for photocopying and administrative expenses associated with recordkeeping. 2,200 × $2 = $4,400. $1 per respondent for postage and/or telephone charges associated with the notification requirements. 100 × $1 = $100.)

Needs and Uses: 47 CFR 78.11(d)(2) requires Cable Television Relay Service (CARS) licensees supplying program material to cable television systems, other eligible systems (i.e., multipoint distribution service and multichannel multipoint distribution service) or television translator stations to keep records showing its non-profit, cost-sharing nature. 47 CFR 78.11(e) requires that a CARS pickup station providing temporary CARS studio-to-headend links or CARS circuits must obtain prior Commission authority, at least one day prior, if the transmitting antenna to be installed will increase the height of any natural formation or manmade structure more than 20 feet and will be in existence for a period of more than two consecutive days and provided further that if transmitting equipment is to be operated for more than 1 day outside of the area to which a CARS station has been licensed, the Commission, the engineer in charge of the district in which the station is licensed to operate, and the engineer in charge of the district in which the equipment will be temporarily operated shall be notified at least 1 day prior to such operation. If the decision to continue operation for more than 1 day is not made until the operation has begun, notice shall be given to the Commission and the relevant engineers in charge within 1 day after such decision. In all instances, the Commission and the relevant engineers in charge shall be notified when the transmitting equipment has been returned to its licensed area.

The records are used by FCC staff in field investigations to ensure that contributions to capital and operating expenses are accepted only on a cost-sharing, nonprofit basis. The notifications will be used by FCC staff to provide information regarding alleged interference.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 97–671 Filed 1–10–97; 8:45 am]

BILLING CODE 6712–01–P

[Report No. 2171]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

January 7, 1997.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these document are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by January 28, 1997. See Section 1.4(b)(1) of the

Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Brownsville and Beaver Dam, KY) (RM–8819).

Number of Petition Filed: 1.

Subject: Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended. (CC Docket No. 96–61).

Number of Petition Filed: 11.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–670 Filed 1–10–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, the Federal Emergency Management Agency gives notice that the following meeting will be held:

NAME: Technical Mapping Advisory Council.

DATES OF MEETING: January 23 and 24, 1997.

PLACES: The meeting will be held at the National Oceanic and Atmospheric Administration headquarters, 1315 East-West Highway, 4th floor conference room (on Thursday January 23) and 1325 East-West Highway, Room 2358 (on Friday January 24), both in Silver Spring, Maryland.

TIMES: 9:00 a.m. to 6 p.m. on Thursday and 8:00 a.m. to 2:30 p.m. Friday.

PROPOSED AGENDA: Topics to be discussed include finalizing the Council's annual report due to the Director of FEMA, formalizing a plan of action, and reviewing the Council's goals. Presentations on mapping technology will also be given.

STATUS: This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Federal Emergency Management Agency, 500 C Street SW., room 421, Washington, DC 20472; telephone (202) 646–2756 or by fax as noted above.

Dated: January 7, 1997.

Frederick H. Sharrocks, Jr.

Chief, Hazard Identification Branch Mitigation Directorate.

[FR Doc. 97–740 Filed 1–10–97; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL HOUSING FINANCE BOARD

[No. 96–N–8]

Notice of Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 added a new Section 10(g) to the Federal Home Loan Bank Act of 1932 requiring that members of the Federal Home Loan Bank (FHLBank) System meet standards for community investment or service in order to maintain continued access to long-term FHLBank System advances. In compliance with this statutory change, the Federal Housing Finance Board (Housing Finance Board) promulgated Community Support regulations (12 CFR Part 936). Under the review process established in the regulations, the Housing Finance Board will select a certain number of members for review each quarter, so that all members that are subject to the Community Reinvestment Act of 1977, 12 U.S.C. 2901 *et seq.*, (CRA), will be reviewed once every two years. The purpose of this Notice is to announce the names of the members selected for the fourth quarter review (1996–97 cycle) under the regulations. The Notice also conveys the dates by which members need to comply with the Community Support regulation review requirements and by which comments from the public must be received.

DATES: *Due Date For Member Community Support Statements for Members Selected in Fourth Quarter Review:* February 27, 1997.

Due Date For Public Comments on Members Selected in Fourth Quarter Review: February 27, 1997.

FOR FURTHER INFORMATION CONTACT: Mitchell Berns, Director, Office of Supervision, (202) 408–2562, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. A telecommunications device for deaf persons (TDD) is available at (202) 408–2579.

SUPPLEMENTARY INFORMATION:

A. Selection for Community Support Review

The Housing Finance Board currently reviews all FHLBank System members that are subject to CRA approximately once every two years. Approximately one-eighth of the FHLBank members in each district will be selected for review by the Housing Finance Board each calendar quarter. To date, only members that are subject to CRA have been reviewed. In selecting members, the Housing Finance Board follows the chronological sequence of the members' CRA Evaluations post-July 1, 1990, to the greatest extent practicable, selecting one-eighth of each District's membership for review each calendar quarter. However, the Housing Finance Board will postpone review of new members until they have been System members for one year.

Selection for review is not, nor should it be construed as, any indication of either the financial condition or Community Support performance of the institutions listed.

B. List of FHLBank Members To Be Reviewed in the Fourth Quarter, Grouped by FHLBank District

Member	City	State
Federal Home Loan Bank of Boston—District 1, P.O. Box 9106, Boston, Massachusetts 02205–9106		
Eagle Federal Savings Bank	Bristol	CT
Nutmeg Federal Savings and Loan Association	Danbury	CT
Union Savings Bank	Danbury	CT
Advest Bank	Hartford	CT
Jewett City Savings Bank	Jewett City	CT
MidConn Bank	Kensington	CT
Naugatuck Valley S&LA, Inc	Naugatuck	CT
The People's Savings Bank of New Britain	New Britain	CT

Member	City	State
New Haven Savings Bank	New Haven	CT
Newtown Savings Bank	Newtown	CT
Norwalk Savings Society	Norwalk	CT
Eastern Savings and Loan Association	Norwich	CT
Ridgefield Bank	Ridgefield	CT
First County Bank	Stamford	CT
Dime Savings Bank of Wallingford	Wallingford	CT
South Adams Savings Bank	Adams	MA
Andover Bank	Andover	MA
Barre Savings Bank	Barre	MA
United States Trust Company	Boston	MA
Brookline Savings Bank	Brookline	MA
Boston Federal Savings Bank	Burlington	MA
Cambridgeport Bank	Cambridge	MA
North Cambridge Co-operative Bank	Cambridge	MA
Canton Co-operative Bank	Canton	MA
Edgartown National Bank	Edgartown	MA
First Federal Savings Bank of America	Fall River	MA
Fidelity Co-operative Bank	Fitchburg	MA
Fitchburg Savings Bank, FSB	Fitchburg	MA
Haverhill Co-operative Bank	Haverhill	MA
Hyde Park Cooperative Bank	Hyde Park	MA
First National Bank of the Berkshires	Lee	MA
Lowell Co-operative Bank	Lowell	MA
Medford Savings Bank	Medford	MA
Milford National Bank	Milford	MA
Natick Federal Savings Bank	Natick	MA
Revere Federal Savings & Loan Association	Revere	MA
Heritage Co-operative Bank	Salem	MA
Salem Five Cents Savings Bank	Salem	MA
Sandwich Co-operative Bank	Sandwich	MA
Shirley Co-operative Bank	Shirley	MA
People's Savings Bank of Brockton	South Easton	MA
Stoneham Savings Bank	Stoneham	MA
Country Bank for Savings	Ware	MA
Wellesley Co-operative Bank	Wellesley	MA
South Shore Cooperative Bank	Weymouth	MA
Winchester Co-operative Bank	Winchester	MA
Bay State Savings Bank	Worcester	MA
Cape Cod Co-operative Bank	Yarmouth Port	MA
Bangor Savings Bank	Bangor	ME
Bar Harbor Savings and Loan Association	Bar Harbor	ME
Northeast Bank, F.S.B	Bethel	ME
First Citizens Bank	Presque Isle	ME
Waldoboro Bank, F.S.B	Waldoboro	ME
Concord Savings Bank	Concord	NH
CFX Bank	Keene	NH
Granite Bank	Keene	NH
Lancaster National Bank	Lancaster	NH
Profile Bank, FSB	Rochester	NH
Bank of Newport	Newport	RI
Citizens Savings Bank	Providence	RI
Westerly Savings Bank	Westerly	RI
Brattleboro Savings and Loan Association, FA	Brattleboro	VT
Federal Home Loan Bank of New York—District 2, Seven World Trade Center, 22nd Floor, New York, New York 10048–1185		
First Community Bank	Annandale	NJ
Bank of Mid-Jersey	Bordentown	NJ
West Essex Savings Bank, S.L.A	Caldwell	NJ
Cape Savings Bank	Cape May Court House	NJ
United Roosevelt Savings & Loan Association	Carteret	NJ
Commerce Bank, N.A	Cherry Hill	NJ
First Constitution Bank	Cranbury	NJ
Delanco Federal Savings Bank	Delanco	NJ
Columbia Savings Bank, S.L.A	Fair Lawn	NJ
Spencer Savings Bank, SLA	Garfield	NJ
Haven Savings Bank	Hoboken	NJ
Manasquan Savings Bank	Manasquan	NJ
First Home Savings Bank, F.S.B	Pennsville	NJ
First S&LA of Sea Isle City	Sea Isle City	NJ
Wawel Savings Bank, SLA	Wallington	NJ
First DeWitt Savings Bank, FSB	West Caldwell	NJ

Member	City	State
Crest Savings Bank, SLA	Wildwood Crest	NJ
Amsterdam Savings Bank, FSB	Amsterdam	NY
Bridgehampton National Bank	Bridgehampton	NY
Atlas Savings & Loan Association	Brooklyn	NY
Reliance Federal Savings Bank	Garden City	NY
Goshen Savings Bank	Goshen	NY
Tompkins County Trust Company	Ithaca	NY
Jamaica Savings Bank, FSB	Lynbrook	NY
Bankers Federal Savings FSB	New York	NY
National Bank & Trust Company of Norwich	Norwich	NY
Adirondack Bank	Saranac Lake	NY
Bank of	Smithtown Smithtown	NY
Walden Federal Savings and Loan Association	Walden	NY
Fourth Federal Savings Bank	White Plains	NY
City & Suburban Federal Savings Bank	Yonkers	NY
Westernbank Puerto Rico	Mayaguez	PR
PonceBank	Ponce	PR
Federal Home Loan Bank of Pittsburgh—District 3, 601 Grant Street, Pittsburgh, Pennsylvania 15219–4455		
First USA Bank	Wilmington	DE
Sovereign Bank, FSB	Toms River	NJ
ADP Savings Association	Allentown	PA
Iron Workers Savings Bank	Aston	PA
Madison Bank	Blue Bell	PA
National Penn Bank	Boyertown	PA
Union Building and Loan Savings Bank	Bridgewater	PA
Clearfield Bank and Trust Company	Clearfield	PA
Dauphin National Bank	Dauphin	PA
First Financial Savings Bank	Downingtown	PA
People's State Bank	East Berlin	PA
Elverson National Bank	Elverson	PA
Community Bank and Trust Company	Forest City	PA
Dime Bank	Honesdale	PA
Indiana First Savings Bank	Indiana	PA
Manor National Bank	Manor	PA
Standard Bank	Monroeville	PA
First Commercial Bank of Philadelphia	Philadelphia	PA
Roxborough-Manayunk Federal Savings Bank	Philadelphia	PA
Brentwood Savings Bank	Pittsburgh	PA
Mt. Troy Savings Bank, FSB	Pittsburgh	PA
PNC Bank, N.A.	Pittsburgh	PA
Pennsylvania Capital Bank	Pittsburgh	PA
Schuylkill Savings & Loan Association	Schuylkill Haven	PA
Somerset Trust Company	Somerset	PA
Omega Bank	State College	PA
Mechanics Savings and Loan FSB	Steelton	PA
Commonwealth Savings Bank	Valley Forge	PA
Compass Federal Savings Bank	Wilmerding	PA
Beckley Federal Savings Bank	Beckley	WV
One Valley Bank, N.A.	Charleston	WV
Hancock County Savings Bank, FSB	Chester	WV
Citizens National Bank	Elkins	WV
National Bank of West Virginia	Morgantown	WV
Traders Bank	Spencer	WV
Progressive Bank	Wheeling	WV
Federal Home Loan Bank of Atlanta—District 4, P.O. Box 105565, Atlanta, Georgia 30348		
First Federal Savings Bank	Bessemer	AL
Citizens Federal Savings Bank	Birmingham	AL
SouthTrust Bank of Alabama, N.A.	Birmingham	AL
BankFirst, a Federal Savings Bank	Decatur	AL
First Federal Bank	Fort Payne	AL
Home Bank	Guntersville	AL
Pinnacle Bank	Jasper	AL
First Montgomery Bank	Montgomery	AL
Farmers National Bank	Opelika	AL
Jacobs Bank	Scottsboro	AL
First Federal Bank, FSB	Tuscaloosa	AL
American National Bank	Union Springs	AL
Independence Federal Savings Bank	Washington	DC
Community National Bank of Bartow	Bartow	FL

Member	City	State
Comerica Bank and Trust, FSB	Boca Raton	FL
First Southern Bank	Boca Raton	FL
Crown Bank, A FSB	Casselberry	FL
AmSouth Bank of Florida	Clearwater	FL
Harbor Federal Savings Bank	Fort Pierce	FL
First South Bank	Holiday	FL
Homosassa Springs Bank	Homosassa Springs	FL
First Federal Savings and Loan Association	Kissimmee	FL
First Federal Savings Bank of Lake County	Leesburg	FL
City National Bank of Florida	Miami	FL
Interamerican Bank, FSB	Miami	FL
Pacific National Bank	Miami	FL
First National Bank of Naples	Naples	FL
Oceanmark Bank, FSB	N. Miami Beach	FL
Lochaven FS&LA	Orlando	FL
Preferred Bank, A FSB	Palmetto	FL
Union Bank of Florida	Plantation	FL
Bayside Federal Savings and Loan Association	Port Charlotte	FL
SouthTrust Bank of Florida, N.A.	St. Petersburg	FL
Seaboard Savings Bank, F.S.B.	Stuart	FL
Valrico State Bank	Valrico	FL
PNC Bank, FSB	Vero Beach	FL
Fidelity Federal Savings Bank of Florida	West Palm Beach	FL
First Bank of Florida	West Palm Beach	FL
Bainbridge National Bank	Bainbridge	GA
First Port City Bank	Bainbridge	GA
Baxley Federal Savings Bank	Baxley	GA
Peoples State Bank & Trust	Baxley	GA
First Federal Savings Bank of Brunswick	Brunswick	GA
Bank of North Georgia	Canton	GA
Security State Bank	Canton	GA
West Georgia National Bank	Carrollton	GA
Main Street Savings Bank, F.S.B.	Conyers	GA
First State Bank and Trust Company	Cordele	GA
Coffee County Bank	Douglas	GA
Commercial Banking Company	Hahira	GA
First Federal Savings Bank of LaGrange	LaGrange	GA
First Liberty Bank	Macon	GA
Security National Bank	Macon	GA
Quitman Federal Savings and Loan Association	Quitman	GA
Citizens Bank of Washington County	Sandersville	GA
First National Bank of Effingham	Springfield	GA
Eagle Bank and Trust	Statesboro	GA
Thomas County FS&LA	Thomasville	GA
Stephens Federal Savings & Loan Association	Toccoa	GA
Mountain National Bank	Tucker	GA
Darby Bank and Trust Company	Vidalia	GA
Vidalia Federal Savings and Loan Association	Vidalia	GA
Bank of Dooly	Vienna	GA
Peoples Bank of Willacoochee	Willacoochee	GA
Peoples Bank	Winder	GA
Talbot State Bank	Woodland	GA
Arundel Federal Savings Bank	Baltimore	MD
Chesapeake FS&LA	Baltimore	MD
Fairmount Federal Savings Bank	Baltimore	MD
Golden Prague FS&LA	Baltimore	MD
Hopkins Federal Savings Bank	Baltimore	MD
Madison Square Federal Savings Bank	Baltimore	MD
Parkville Federal Savings Bank	Baltimore	MD
Rosedale FS&LA	Baltimore	MD
Westview FS&LA	Baltimore	MD
Chevy Chase Savings Bank, FSB	Chevy Chase	MD
Bank of Delmar	Delmar	MD
Patapsco Bank	Dundalk	MD
Elkridge Bank	Elkridge	MD
Commercial and Farmers Bank	Ellicott City	MD
Farmers and Mechanics National Bank	Frederick	MD
Citizens Savings Bank, F.S.B	Gaithersburg	MD
OBA Federal Savings and Loan Association	Gaithersburg	MD
Columbian Bank, F.S.B	Havre de Grace	MD
Suburban Federal Savings Bank	Landover Hills	MD
Heritage Savings Bank, F.S.B	Lutherville	MD
Senator Savings Bank, FSB	Towson	MD
Tri-County Federal Savings Bank of Waldorf	Waldorf	MD

Member	City	State
Washington Savings Bank, FSB	Waldorf	MD
Woodsboro Savings Bank	Woodsboro	MD
Asheville Savings Bank, S.S.B	Asheville	NC
Blue Ridge Savings Bank, Inc	Asheville	NC
Hometown Bank	Asheville	NC
Community Savings Bank, SSB	Burlington	NC
First State Savings Bank, SSB	Burlington	NC
Cherryville FS&LA	Cherryville	NC
First Charter National Bank	Concord	NC
SouthTrust Bank of Central Carolina	Concord	NC
First Federal Savings Bank	Dunn	NC
Mutual Community Savings Bank, SSB	Durham	NC
Home Federal Savings and Loan Association	Fayetteville	NC
Hillsborough Savings Bank, SSB	Hillsborough	NC
First Federal Savings and Loan Association	Lincolnton	NC
Progressive Savings and Loan, Ltd	Lumberton	NC
Mooresville Savings Bank, SSB	Mooresville	NC
Richmond Savings Bank, SSB	Rockingham	NC
Roxboro Savings Bank, SSB	Roxboro	NC
Citizens Savings Bank of Salisbury, SSB	Salisbury	NC
Home Savings, SSB	Thomasville	NC
Home Savings Bank, SSB	Washington	NC
Abbeville Savings and Loan Association	Abbeville	SC
Bank of Abbeville	Abbeville	SC
Palmetto Federal Savings Bank	Aiken	SC
First Federal Savings and Loan Association	Anderson	SC
FirstBank, N.A	Beaufort	SC
First Federal Savings and Loan of Cheraw	Cheraw	SC
First Savers Bank	Greenville	SC
Citizens Building and Loan Association	Greer	SC
Mutual Savings and Loan Association, F.A	Hartsville	SC
Atlantic Savings Bank, FSB	Hilton Head Island	SC
Pee Dee Federal Savings Bank	Marion	SC
Coastal Federal Savings Bank	Myrtle Beach	SC
Oconee Federal Savings and Loan Association	Seneca	SC
First FS&LA of Spartanburg	Spartanburg	SC
First Carolina Bank, FSB	Walterboro	SC
Community FS&LA	Winnsboro	SC
First Commonwealth Savings Bank, FSB	Alexandria	VA
First Security Federal Savings Bank, Inc	Annandale	VA
Citizens Bank and Trust Company	Blackstone	VA
Caroline Savings Bank	Bowling Green	VA
Acacia Federal Savings Bank	Falls Church	VA
First Virginia Bank	Falls Church	VA
First Community Bank	Forest	VA
Virginia Savings Bank, FSB	Front Royal	VA
One Valley Bank—Central Virginia	Lynchburg	VA
First FS&LA of Martinsville	Martinsville	VA
Piedmont Trust Bank	Martinsville	VA
Cenit Bank, FSB	Norfolk	VA
Life Savings Bank, FSB	Norfolk	VA
Virginia First Savings Bank, F.S.B	Petersburg	VA
Fidelity Federal Savings Bank	Richmond	VA
Bank of Tazewell County	Tazewell	VA
Essex Savings Bank, F.S.B. (North Carolina)	Virginia Beach	VA
First Coastal Bank	Virginia Beach	VA

Federal Home Loan Bank of Cincinnati—District 5, P.O. Box 598, Cincinnati, Ohio 45201

Ashland Federal Savings Bank	Ashland	KY
Home Federal Savings and Loan Association	Ashland	KY
First American National Bank of Kentucky	Bowling Green	KY
Bank of Buffalo	Buffalo	KY
Citizens Deposit Bank	Calhoun	KY
Calvert Bank	Calvert City	KY
First National Bank	Columbia	KY
First National Bank & Trust Company	Corbin	KY
Kentucky FS&LA	Covington	KY
Greensburg Deposit Bank & Trust Company	Greensburg	KY
Citizens State Bank	Hazard	KY
Garrard Bank and Trust	Lancaster	KY
Casey County Bank, Inc	Liberty	KY
Farmers and Merchants Bank	Livermore	KY

Member	City	State
Madisonville Building and Loan Association	Madisonville	KY
Bank of Maysville	Maysville	KY
Hart County Bank and Trust Company	Munfordville	KY
Farmers Bank	Nicholasville	KY
Owensboro National Bank	Owensboro	KY
Farmers Bank	Owingsville	KY
Pikeville National Bank and Trust Company	Pikeville	KY
Independence Bank	Providence	KY
Cumberland Security Bank	Somerset	KY
Lincoln Federal Savings Bank	Stanford	KY
Commercial Bank	West Liberty	KY
Antwerp Exchange Bank Company	Antwerp	OH
FirstMerit Peoples Bank	Ashtabula	OH
Hocking Valley Bank	Athens	OH
Citizens Federal Savings and Loan	Bellefontaine	OH
Citizens National Bank	Canton	OH
Castalia Banking Company	Castalia	OH
Mercer Savings Bank	Celina	OH
First County Bank	Chardon	OH
Cheviot Building and Loan Company	Cheviot	OH
Bramble FS & LA of Cincinnati	Cincinnati	OH
Cincinnati Federal Savings & Loan Association	Cincinnati	OH
North Side Bank and Trust Company	Cincinnati	OH
People's Savings Association	Cincinnati	OH
Seven Hills Savings Association	Cincinnati	OH
Cuyahoga Savings Association	Cleveland	OH
National City Bank, Cleveland	Cleveland	OH
Ohio Savings Bank	Cleveland	OH
Home Loan and Savings Company	Coshocton	OH
Covington Savings and Loan Association	Covington	OH
Citizens Federal Bank	Dayton	OH
Deer Park Federal Savings & Loan Association	Deer Park	OH
Delaware County Bank and Trust Company	Delaware	OH
Northern Savings and Loan Company	Elyria	OH
Genoa Savings and Loan Company	Genoa	OH
Indian Village FS&LA	Gnadenhutten	OH
Hicksville Bank	Hicksville	OH
American Community Bank, N.A.	Lima	OH
Enterprise Federal Savings Bank	Lockland	OH
Home Builders Association	Lynchburg	OH
Citizens Savings Bank	Martins Ferry	OH
Peoples Building Loan and Savings Company	Mason	OH
Clermont Savings Bank	Milford	OH
Commercial and Savings Bank	Millersburg	OH
Peoples National Bank	New Lexington	OH
First National Bank of Pandora	Pandora	OH
Century Federal Savings Bank	Parma	OH
Farmers Bank and Savings Company	Pomeroy	OH
Ravenna Savings Bank	Ravenna	OH
Capital Bank, N.A.	Sylvania	OH
Commercial Savings Bank	Upper Sandusky	OH
Versailles Savings and Loan Company	Versailles	OH
First FS&LA of Wooster	Wooster	OH
Wayne Savings and Loan Company	Wooster	OH
Home Savings and Loan Company	Youngstown	OH
Athens Federal Savings and Loan Association	Athens	TN
First National Bank and Trust Company	Athens	TN
Bells Banking Company	Bells	TN
Benton Banking Company	Benton	TN
Peoples Bank and Trust Company	Byrdstown	TN
AmSouth Bank of Tennessee	Chattanooga	TN
Pioneer Bank	Chattanooga	TN
Rhea County National Bank	Dayton	TN
Greenfield Banking Company	Greenfield	TN
First Peoples Bank of Jefferson County	Jefferson City	TN
NBC Knoxville Bank	Knoxville	TN
Lawrenceburg FS&LA	Lawrenceburg	TN
SouthTrust Bank of Middle Tennessee	Nashville	TN
First Trust and Savings Bank, Oneida	Oneida	TN
Citizens Bank and Trust Company	Rutledge	TN
Bank of Waynesboro	Waynesboro	TN

Member	City	State
Federal Home Loan Bank of Indianapolis—District 6, P.O. Box 60, Indianapolis, Indiana 46205–0060		
Workingmens ONB Bank	Bloomington	IN
Heritage Bank and Trust Company	Darlington	IN
Elberfield State Bank	Elberfield	IN
Mutual Savings Bank	Franklin	IN
Calumet National Bank	Hammond	IN
First FS&LA of Hammond	Hammond	IN
Citizens First State Bank	Hartford City	IN
First Indiana Bank, a FSB	Indianapolis	IN
Farmers State Bank	LaGrange	IN
Perpetual FS&LA	Lawrenceburg	IN
Citizens National Bank of Madison	Madison	IN
Mishawaka Federal Savings	Mishawaka	IN
American National Bank and Trust Company	Muncie	IN
West End Savings Bank	Richmond	IN
Scott County State Bank	Scottsburg	IN
Indiana Federal Bank for Savings	Valparaiso	IN
Security Bank and Trust Company	Vincennes	IN
Mutual Savings Bank, FSB	Bay City	MI
First Federal of Michigan	Detroit	MI
Citizens Commercial and Savings Bank	Flint	MI
Old Kent Bank	Grand Rapids	MI
FMB-Commercial Bank	Greenville	MI
D&N Bank, FSB	Hancock	MI
Mainstreet Savings Bank, FSB	Hastings	MI
First National Bank of Iron Mountain	Iron Mountain	MI
Community First Bank	Lansing	MI
Wolverine Federal Savings and Loan Assoc	Midland	MI
Central Savings Bank	Sault Ste. Marie	MI
Sturgis Federal Savings Bank	Sturgis	MI
First Savings Bank	Three Rivers	MI
Standard Federal Savings Bank	Troy	MI
Federal Home Loan Bank of Chicago—District 7, 111 East Wacker Drive, Suite 700, Chicago, Illinois 60601		
Citizens National Bank of Albion	Albion	IL
Arcola Homestead and Loan Association	Arcola	IL
Douglas Savings Bank	Arlington Heights	IL
Bartelso Savings Bank	Bartelso	IL
Heritage Bank	Blue Island	IL
Midland Federal Savings and Loan Association	Bridgeview	IL
Burlington Bank	Burlington	IL
Byron Bank	Byron	IL
First State Bank of Campbell Hill	Campbell Hill	IL
Carrollton Bank and Trust Company	Carrollton	IL
Avondale Federal Savings Bank	Chicago	IL
Chesterfield FS&LA of Chicago	Chicago	IL
Hoyne Savings & Loan Association	Chicago	IL
Loomis Federal Savings and Loan Association	Chicago	IL
North Side FS&LA of Chicago	Chicago	IL
Royal Savings Bank	Chicago	IL
Second FS&LA of Chicago	Chicago	IL
Security Federal S & L Association of Chicago	Chicago	IL
South Chicago Bank	Chicago	IL
Southwest FS&LA of Chicago	Chicago	IL
Standard Federal Bank for Savings	Chicago	IL
Central Federal Savings and Loan Association	Cicero	IL
De Witt Savings Bank	Clinton	IL
First Federal Bank, F.S.B	Colchester	IL
First United Bank	Crete	IL
First National Bank of DeKalb	DeKalb	IL
Soy Capital Bank and Trust Company	Decatur	IL
Durand State Bank	Durand	IL
Howard Savings Bank	Glenview	IL
Security State Bank of Hamilton	Hamilton	IL
Harvard Federal Savings and Loan Association	Harvard	IL
Suburban Federal Savings	Harvey	IL
First National Bank of LaGrange	LaGrange	IL
Exchange State Bank	Lanark	IL
Bank and Trust Company	Litchfield	IL
Maywood-Proviso State Bank	Maywood	IL
A.J. Smith Federal Savings Bank	Midlothian	IL

Member	City	State
Security Savings Bank	Monmouth	IL
Farmers State Bank Chadwick and Mt. Carroll	Mount Carroll	IL
Ayars State Bank	Moweaqua	IL
MidAmerica Federal Savings Bank	Naperville	IL
Warren-Boynton State Bank	New Berlin	IL
Oakland National Bank	Oakland	IL
Ottawa Federal Savings & Loan Association	Ottawa	IL
State Bank of Paw Paw	Paw Paw	IL
Heights Bank	Peoria Heights	IL
Pleasant Plains State Bank	Pleasant Plains	IL
Rantoul First Bank, s.b	Rantoul	IL
First Ridge Farm State Bank	Ridge Farm	IL
Community State Bank of Rock Falls	Rock Falls	IL
Rushville State Bank	Rushville	IL
First Bank of Schaumburg	Schaumburg	IL
Bank of Warrensburg	Warrensburg	IL
State Bank of Winslow	Winslow	IL
Portage County Bank	Almond	WI
Pioneer Bank	Auburndale	WI
Baraboo Federal Bank, FSB	Baraboo	WI
First National Bank & Trust Company	Baraboo	WI
Black River Country Bank	Black River Falls	WI
Bonduel State Bank	Bonduel	WI
Cumberland Federal Bank, FSB	Cumberland	WI
East Wisconsin Savings and Loan Association	Kaukauna	WI
Bank Wisconsin	Kewaskum	WI
Associated Bank Madison	Madison	WI
First Bank and Trust	Menomonie	WI
Bank of Milton	Milton	WI
Columbia Savings and Loan Association	Milwaukee	WI
Milwaukee Western Bank	Milwaukee	WI
Reliance Savings Bank	Milwaukee	WI
St. Francis Bank, F.S.B	Milwaukee	WI
Universal Savings Bank, F.A	Milwaukee	WI
State Bank of Mt. Horeb	Mount Horeb	WI
Mound City Bank	Platteville	WI
Community Bank of Sheboygan	Sheboygan	WI
First Federal Savings Bank of Wisconsin	Waukesha	WI
Marquette Savings Bank, S.A	West Allis	WI
KeySavings Bank	Wisconsin Rapids	WI
Wood County National Bank	Wisconsin Rapids	WI
Federal Home Loan Bank of Des Moines—District 8, 907 Walnut Street, Des Moines, Iowa 50309		
First Trust and Savings Bank	Cedar Rapids	IA
Farmers Savings Bank	Colesburg	IA
Iowa Savings Bank	Coon Rapids	IA
Citizens Bank	Corydon	IA
AmerUS	Des Moines	IA
Valley State Bank	Eldridge	IA
Liberty Bank and Trust Company	Lake Mills	IA
First State Bank of Mapleton	Mapleton	IA
New Vienna Savings Bank	New Vienna	IA
First State Bank	Nora Springs	IA
American State Bank	Osceola	IA
Farmers Savings Bank	Packwood	IA
Perry State Bank	Perry	IA
Readlyn Savings Bank	Readlyn	IA
Sac City State Bank	Sac City	IA
Union Bank and Trust Company	Strawberry Point	IA
State Bank of Toledo	Toledo	IA
Iowa State Bank	Wapello	IA
Washington Federal Savings Bank	Washington	IA
First State Bank	Webster City	IA
Union State Bank	Winterset	IA
First State Bank of Bayport	Bayport	MN
First Federal, FSB	Hutchinson	MN
Prinsburg State Bank	Prinsburg	MN
Randall State Bank	Randall	MN
Home Federal Savings Bank	Spring Valley	MN
St. Anthony Park State Bank	St. Paul	MN
Northwestern State Bank of Ulen	Ulen	MN
Wells Federal Bank, A FSB	Wells	MN

Member	City	State
Worthington FS&LA	Worthington	MN
First Missouri National Bank	Brookfield	MO
Investors Federal Bank & Savings Association	Chillicothe	MO
Boone National S&LA, FA	Columbia	MO
Ozarks Federal Savings and Loan Association	Farmington	MO
Bank Northwest	Hamilton	MO
Hardin Federal Savings Bank	Hardin	MO
Macon Building and Loan Association	Macon	MO
Dent County Bank	Salem	MO
Quarry City Savings and Loan Association	Warrensburg	MO
First Bank, F.S.B.	Fargo	ND
Norwest Bank North Dakota, N.A.	Fargo	ND
First American Bank	Lisbon	ND
Farmers and Merchants Bank	Huron	SD
BankFirst, N.A.	Sioux Falls	SD
Home Federal Savings Bank	Sioux Falls	SD
F&M Bank	Watertown	SD
Federal Home Loan Bank of Dallas—District 9, P.O. Box 619026, Dallas/Fort Worth, Texas 75261–9026		
First Financial Bank, FSB	El Dorado	AR
Fordyce Bank and Trust Company	Fordyce	AR
Forrest City Bank, FSB	Forrest City	AR
City National Bank of Fort Smith	Fort Smith	AR
Pine Bluff National Bank	Pine Bluff	AR
Federal Savings Bank of Rogers	Rogers	AR
First National Bank and Trust Company	Rogers	AR
First Western Bank and Trust R	Rogers	AR
First National Bank of Siloam Springs	Siloam Springs	AR
Bank of Coushatta	Coushatta	LA
St. Tammany Homestead Association	Covington	LA
Teche Federal Savings Bank	Franklin	LA
Florida Parishes Homestead Association	Hammond	LA
LBA Savings Bank	Lafayette	LA
Mutual Savings and Loan Association	Metairie	LA
First Bank of Natchitoches and Trust Company	Natchitoches	LA
Guaranty Savings and Homestead Association	New Orleans	LA
Hibernia Homestead and Savings Association	New Orleans	LA
Ponchatoula Homestead Association	Ponchatoula	LA
Bank of West Baton Rouge	Port Allen	LA
Ruston Building and Loan Association	Ruston	LA
Bank of St. Francisville	St. Francisville	LA
Bank of Commerce	White Castle	LA
Amory Federal Savings & Loan Association	Amory	MS
Delta Bank and Trust	Drew	MS
Britton & Koontz First National Bank	Natchez	MS
Bank of New Mexico	Albuquerque	NM
International State Bank	Raton	NM
First National Bank of Tucumcari	Tucumcari	NM
Security State Bank	Abilene	TX
First National Bank of Athens	Athens	TX
First National Bank of Bridgeport	Bridgeport	TX
Citizens State Bank	Cross Plains	TX
Beal Bank, SSB	Dallas	TX
Security Bank, N.A.	Garland	TX
Hebbronville State Bank	Hebbronville	TX
Liberty Savings Association	Houston	TX
MetroBank, N.A.	Houston	TX
Texas State Bank	Joaquin	TX
First Nichols National Bank	Kenedy	TX
First National Bank of Lake Jackson	Lake Jackson	TX
First Federal Savings and Loan Association	Littlefield	TX
Bank of Livingston	Livingston	TX
Plains National Bank of West Texas	Lubbock	TX
Bank of East Texas	Lufkin	TX
Inter National Bank	McAllen	TX
Mineola Federal Savings and Loan Association	Mineola	TX
Commercial Bank of Texas, N.A.	Nacogdoches	TX
Western National Bank	Odessa	TX
Orange Savings Bank, SSB	Orange	TX
Fort Bend FS&LA	Rosenberg	TX
Kelly Field National Bank	San Antonio	TX
Smithville Savings and Loan Association	Smithville	TX

Member	City	State
Town and Country Bank	Stephenville	TX
Loan and Building State Savings Bank	Sulphur Springs	TX
First National Bank in Valley Mills	Valley Mills	TX
South Texas Bank, FSB	Victoria	TX
Winnsboro Bank and Trust	Winnsboro	TX
Federal Home Loan Bank of Topeka—District 10, P.O. Box 176, Topeka, Kansas 66601		
Commerce Bank of Aurora	Aurora	CO
Del Norte Federal Savings & Loan Association	Del Norte	CO
Centennial Savings Bank, a FSB	Durango	CO
Park National Bank	Estes Park	CO
La Junta State Bank	La Junta	CO
First National Bank of Lake City	Lake City	CO
Bank of Commerce	Chanute	KS
Home Savings Bank	Chanute	KS
Landmark Federal Savings Bank	Dodge City	KS
Citizens Bank and Trust Company	Ellsworth	KS
Gardner National Bank	Gardner	KS
Farmers State Bank of Oakley	Oakley	KS
First Kansas Federal Savings Association	Osawatomie	KS
Chisholm Trail State Bank	Wichita	KS
The State Bank	Winfield	KS
Bank of Bennington	Bennington	NE
Custer Federal Savings and Loan Association	Broken Bow	NE
Citizens State Bank	Carleton	NE
First State Bank	Enders	NE
American National Bank of Fremont	Fremont	NE
First State Bank	Fremont	NE
Havelock Bank	Lincoln	NE
First National Bank of West Point	West Point	NE
First National Bank & Trust Company	Broken Arrow	OK
Bank of Chelsea	Chelsea	OK
First Bank Claremore, F.S.B	Claremore	OK
American Bank and Trust	Edmond	OK
InterBank, N.A	Elk City	OK
Liberty Federal Savings Bank	Enid	OK
Fairview Savings and Loan Association	Fairview	OK
First Southwest Bank	Frederick	OK
City National Bank and Trust Company	Guymon	OK
Citizens Bank	Lawton	OK
First National Bank and Trust	Muskogee	OK
NBC Bank	Pawhuska	OK
Osage Federal Savings & Loan Association	Pawhuska	OK
Sooner State Bank	Tuttle	OK
First State Bank	Watonga	OK
Federal Home Loan Bank of San Francisco—District 11, 307 East Chapman Avenue, Orange, California 92666		
Placer Savings Bank	Auburn	CA
Great Western Bank	Chatsworth	CA
California State Bank	Covina	CA
Mt. Diablo National Bank	Danville	CA
Hawthorne Savings Bank, F.S.B	El Segundo	CA
Sierra Thrift	Fresno	CA
Glendale Federal Bank, FSB	Glendale	CA
Highland Federal Bank, F.S.B	Los Angeles	CA
Downey Savings & Loan Association	Newport Beach	CA
National Bank of Southern California	Newport Beach	CA
Universal Bank, F.S.B	Orange	CA
Butte Community Bank	Paradise	CA
CenFed Bank	Pasadena	CA
Provident Savings Bank, FSB	Riverside	CA
River City Bank	Sacramento	CA
Pan American Savings Bank	San Mateo	CA
San Rafael Thrift and Loan Company	San Rafael	CA
Los Padres Savings Bank, FSB	Solvang	CA
Sonoma Valley Bank	Sonoma	CA
Eldorado Bank	Tustin	CA
Continental Pacific Bank	Vacaville	CA
Surety Federal Savings Bank	Vallejo	CA
Rancho Vista National Bank	Vista	CA

Member	City	State
Quaker City Federal Savings and Loan	Whittier	CA
Federal Home Loan Bank of Seattle—District 12, 1501 Fourth Avenue, Seattle, Washington 98101–1693		
Citizens Security Bank (Guam), Inc	Agana	GU
First Federal Bank of Idaho, F.S.B	Lewiston	ID
First FS&LA of Montana	Hamilton	MT
Empire Federal Savings and Loan Association	Livingston	MT
First Security Bank Missoula	Missoula	MT
Ronan State Bank	Ronan	MT
Linn-Benton Bank	Albany	OR
Bank of Eastern Oregon	Arlington	OR
Pioneer Bank, F.S.B	Baker City	OR
Evergreen FS&LA	Grants Pass	OR
Klamath First FS&LA	Klamath Falls	OR
Washington Mutual Bank FSB	Lake Oswego	OR
Orchard Bank, F.S.B	Ontario	OR
Bank of America, F.S.B	Portland	OR
American Marine Bank	Bainbridge Island	WA
Riverview Savings Bank, F.S.B	Camas	WA
Whidbey Island Bank	Coupeville	WA
Heritage Savings Bank	Olympia	WA
Olympia Federal Savings & Loan Association	Olympia	WA
Farmers and Merchants Bank of Rockford	Opportunity	WA
First FS&LA of Port Angeles	Port Angeles	WA
Washington Mutual Bank	Seattle	WA
Yakima Federal Savings and Loan Association	Yakima	WA
American National Bank of Rock Springs	Rock Springs	WY
Rock Springs National Bank	Rock Springs	WY
Tri-County Savings Bank	Torrington	WY

C. Due dates

Members selected for review must submit completed Community Support Statements to their FHLBanks no later than February 27, 1997.

All public comments concerning the Community Support performance of selected members must be submitted to the members' FHLBanks no later than February 27, 1997.

D. Notice to members selected

Within 15 days of this Notice's publication in the Federal Register, the individual FHLBanks will notify each member selected to be reviewed that the member has been selected and when the member must return the completed Community Support Statement. At that time, the FHLBank will provide the member with a Community Support Statement form and written instructions and will offer assistance to the member in completing the Statement. The FHLBank will only review Statements for completeness, as the Housing Finance Board will conduct the actual review.

E. Notice to Public

At the same time that the FHLBank members selected for review are notified of their selection, each FHLBank will also notify community groups and other interested members of the public.

The purpose of this notification will be to solicit public comment on the Community Support records of the FHLBank members pending review.

Any person wishing to submit written comments on the Community Support performance of a FHLBank member under review in this quarter should send those comments to the member's FHLBank by the due date indicated in order to be considered in the review process.

By the Federal Housing Finance Board.

Rita I. Fair,

Managing Director.

Dated: December 23, 1996.

[FR Doc. 97–00126 Filed 1–10–97; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the Federal Register.

Agreement No.: 224–002758–014.

Title: Port of Oakland/American President Line Terminal Agreement.

Parties: City of Oakland and American President Lines, Ltd. (''APL'').

Synopis: The proposed amendment allows the Philippines, Micronesia & Orient Line, as a secondary user of the assigned premises, a 20 percent reduction in the wharfage rate on certain overland common point tropical fruit cargo. The amendment also modifies the agreement with respect to the definitions of primary and secondary use, in order to facilitate the operations of the global alliance APL has entered with other carriers. Finally, the amendment provides for changes applicable to the secondary use of the assigned premises by Orient Overseas Container Line.

Dated: January 7, 1997.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–703 Filed 1–10–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 7, 1997.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Community Bancorp of Louisiana, Inc., Raceland, Louisiana; to merge with American Security Bancshares, Inc., Welsh, Louisiana, and thereby indirectly acquire American Bank, Welsh, Louisiana.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Damen Financial Corporation, Schaumburg, Illinois; to become a bank holding by acquiring 100 percent of the voting shares of Damen National Bank, Schaumburg, Illinois (in organization).

Board of Governors of the Federal Reserve System, January 7, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–692 Filed 1–10–97; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Information Security Oversight Office; Cancellation of Optional Form

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: Because of low usage the following Optional Form is cancelled: OF 95, Opened/Locked Sign for Restricted Files.

DATES: Effective January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

Dated: December 23, 1996.

Steven Garfinkel,

Director, Information Security Oversight Office.

[FR Doc. 97–713 Filed 1–10–97; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96D–0300]

Reviewer Guidance for a Premarket Notification Submission for Blood Establishment Computer Software; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Reviewer Guidance for a Premarket Notification Submission for Blood Establishment Computer Software.'' The guidance document applies to blood establishment software products intended for use in the manufacture of blood and blood components or for the maintenance of data that blood establishment personnel use in making decisions regarding the suitability of donors and the release of blood or blood components for transfusion or further manufacture. The guidance presents an overview of the type of information, including methods and procedures, that FDA's reviewers should expect to be included in 510(k) submissions for such devices and describes the approach FDA's reviewers should take in reviewing premarket submissions for blood establishment computer software.

DATES: Written comments may be submitted at any time, however, to ensure comments are considered for the next revision they should be submitted by April 14, 1997.

ADDRESSES: Submit written comments and information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Submit written requests for single copies of the guidance entitled ''Reviewer Guidance for a Premarket Notification Submission for Blood Establishment Computer Software'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests.

The document may also be obtained by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or FAX at 1–800–CBER–FAX, or 301–827–3844.

Persons with access to the INTERNET may obtain the document using the World Wide Web (WWW), or bounce-back e-mail. For WWW access, connect to CBER at ''http.fda.gov/cber/cberftp.html''. To receive the document by bounce-back e-mail, send a message to ''SWREVIEW@al.cber.fda.gov''.

FOR FURTHER INFORMATION CONTACT: Nancy J. Jensen, Office of Blood Research and Review/Division of Blood Applications, Center for Biologics Evaluation and Research (HFM–385), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3524.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a

''Reviewer Guidance for a Premarket Notification Submission for Blood Establishment Computer Software.'' A premarket notification (510(k)) is an application submitted to FDA under section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(k)), to demonstrate that the medical device to be marketed is substantially equivalent to a legally marketed device that was or is currently on the U.S. market.

In a March 31, 1994, letter sent to manufacturers of blood establishment computer software, FDA stated that software products used in the manufacture or maintenance of data for blood and blood components are devices under section 201(h) of the act (21 U.S.C. 321(h)) because these products aid in the prevention of disease by identifying unsuitable donors and by preventing the release of unsuitable blood and blood components for transfusion or for further manufacturing use. The original date for submissions was March 31, 1995, but after careful evaluation of the needs expressed by the software manufacturers and the impact of the initiative on blood establishments, FDA concluded that a 1-year extension to March 31, 1996, was warranted. FDA notified known manufacturers of blood establishment computer software of the extension, by letter, the text of which was published in the Federal Register of October 3, 1995 (60 FR 51802). The reviewer guidance was presented and discussed at the Blood Products Advisory Committee meeting held on June 20, 1996.

The content and format required for a 510(k) submission may be found in 21 CFR part 807. FDA intends that the guidance document will be used as a supplement to the ''Reviewer Guidance for Computer Controlled Medical Devices Undergoing 510(k) Review,'' issued by the Center for Devices and Radiological Health on August 29, 1991. The reviewer guidance announced in this notice contains a description of the content and format that a reviewer should expect in a 510(k) submission for blood establishment computer software.

As with other guidance documents, FDA does not intend this document to be all-inclusive. Moreover, not all information may be applicable to all situations. The reviewer guidance document is intended to provide information and does not set forth requirements. Although this guidance document does not create or confer any rights for or on any person and does not operate to bind FDA or the public, it does represent the agency's current thinking on the review of premarket notification submissions for blood establishment computer software.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the reviewer guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments and information are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments are available for public examination in the office above between 9 a.m. and 4 p.m., Monday through Friday.

FDA anticipates revising the reviewer guidance document periodically, in response to comments received or to reflect advancements in blood establishment computer software.

Dated: December 31, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–715 Filed 1–10–97; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[BPD–882–N]

Notification Procedures for States Implementing ''Alternative Mechanisms'' in the Individual Health Insurance Market

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice generally describes the statutory provisions under section 111 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) that guarantee availability of individual health insurance coverage to certain individuals with prior group coverage. It also provides procedural guidance for States that intend to implement an alternative mechanism under section 111 of HIPAA. Finally, this notice describes the statutory provisions that will apply in a State that does not implement an acceptable alternative mechanism.

This notice does not establish new policy or requirements.

FOR FURTHER INFORMATION CONTACT: Gertrude Saunders of the Insurance Reform Implementation Task Force (IRITF), (410) 786–5888 or e-mail (iritf@hcfa.gov).

ADDRESSES: All correspondence regarding this notice should be submitted to the following address: HCFA, Bureau of Policy Development, Office of Chronic Care and Insurance Policy, Insurance Reform Implementation Task Force, S–LL–17, Attention: Marc Thomas, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

SUPPLEMENTARY INFORMATION:

I. Background—Summary of Recent Legislation

The Health Insurance Portability and Accountability Act of 1996 (HIPAA, Pub. L. 104–191) was enacted on August 21, 1996. HIPAA amended the Public Health Service (PHS) Act to provide for, among other things, improved access, portability, and renewability of health insurance in both the group and individual health insurance markets. Group health plans are regulated, in part, by the Federal government under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code and, to the extent they purchase insurance, in part, by the States under State insurance law. Policies sold in the individual health insurance market are regulated by the States. This notice pertains to only the individual market changes made by section 111 of HIPAA.

Section 2741 of the PHS Act, as added by section 111 of HIPAA, essentially gives a State two options to ensure that ''eligible individuals'' have access to the individual health insurance market. Under the first option, assuming there is appropriate authority in State law, the State may simply enforce the Federal statutory provisions that require all issuers who offer coverage in the individual market to make all their individual policies available to all eligible individuals on a guaranteed basis, without preexisting condition exclusions. (These provisions are commonly referred to as the ''Federal default'' provisions.) If the State chooses this option, individual issuers may elect to impose certain limitations on the policies that they are required to offer under the Federal default provisions. (For additional information on these limitations see section VIII of this notice.)

Under the second option, States may choose to implement an ''alternative mechanism'' to ensure that eligible individuals have access to the individual health insurance market or comparable coverage. States that choose this option must submit to us a timely notice with sufficient documentation to enable us to determine whether it is an acceptable alternative mechanism. (This process is discussed in more detail under section VI of this notice, which includes the address for written submissions.)

II. Preemption

Section 2762 of the PHS Act specifies that the Federal statutory provisions pertaining to health insurance issuers in the individual market generally do not preempt State regulation of individual insurance. Nevertheless, if the State standards and requirements prevent the application of a Federal requirement, the statute preempts the State standards and requirements and the Federal requirements prevail.

Accordingly, the State standards and requirements must ensure at a minimum that every eligible individual in the State is provided access to coverage that comports with Federal requirements. The State standards may not depart from the Federal requirements in a way that diminishes this minimum coverage. The State, however, is permitted to adopt standards that expand the number of individuals who are protected. For example, as discussed below, an eligible individual must have an aggregate of at least 18 months of ''creditable coverage,'' with no breaks in coverage that exceed 62 days. The same concept of creditable coverage is used in section 2701 of the PHS Act, which limits the use of preexisting condition exclusions in the group market. Under section 2723(b)(2)(iii) of the PHS Act, States may permit breaks in coverage that exceed 62 days. If the State adopts this provision in the group market, it would not be precluded from applying the same rule in the individual market, since it would potentially extend coverage to people whose breaks in coverage would otherwise exclude them from the definition of an eligible individual.

Section 2762 of the PHS Act also specifies that nothing in the individual market provisions of HIPAA shall be construed to affect or modify the provisions of section 514 of ERISA, which preempts State regulation of employee welfare benefit plans, including group health plans, except through the regulation of insurance.

III. Federal Definitions

The individual market rules of HIPAA provide health insurance protection to an ''eligible individual.'' This term is defined in section 2741(b) of the PHS Act. It includes an individual who meets all of the following criteria:

- The individual has aggregate periods of ''creditable coverage'' (as defined in section 2701(c) of the PHS Act) totaling 18 or more months at the time the individual seeks individual market coverage. In general, under section 2701(c) of the PHS Act, multiple periods of coverage are aggregated only if there has been no more than a 62-day break between periods of creditable coverage.
- The individual's most recent creditable coverage must have been provided under a group health plan (including a governmental plan or church plan), as defined under section 2791 of the PHS Act, or health insurance offered in connection with that plan.
- The individual is not eligible for coverage under a group health plan, is not eligible for Medicare or Medicaid coverage, and does not have other health insurance coverage.
- The termination of the individual's most recent health plan coverage is not related to nonpayment of premiums or fraud, as described in sections 2712(b)(1) or (b)(2) of the PHS Act.
- The individual must have elected any continuation coverage offered by an employer plan under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, Pub. L. 99–272) or under a similar State requirement, and must have exhausted that coverage. (Federal COBRA provisions only apply to plans of an employer that normally employed at least 20 employees on a typical business day in the preceding calendar year. In some cases, there are State requirements similar to COBRA that require continuation coverage for insurance policies not subject to the Federal COBRA provisions.)

''Group health plan'' is defined in section 2791(a)(1) of the PHS Act to mean an employee welfare benefit plan (as defined in section 3(1) of ERISA) to the extent that the plan provides medical care (as defined below), including items and services paid for as medical care to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

''Health insurance coverage'' is defined in section 2791(b)(1) of the PHS Act to mean benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital, or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

''Health insurance issuer'' is defined in section 2791(b)(2) of the PHS Act as an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in section 2791(b)(3) of the PHS Act) which is licensed to engage in the business of insurance in the State and which is subject to State laws that regulate insurance. The term ''health insurance issuer'' does not include a group health plan.

''Individual health insurance coverage'' is defined in section 2791(b)(5) of the PHS Act to mean health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance.

Section 2791(a)(2) of the PHS Act defines ''medical care'' as amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body; including transportation primarily for and essential to the medical care and insurance covering the medical care.

IV. Alternative Mechanisms; Minimum Requirements

Although the law recognizes diversity among the States by allowing for alternative mechanisms, there are minimum requirements for alternative mechanisms. Under section 2744(a)(1) of the PHS Act, an alternative mechanism must meet the following requirements:

- Provide a choice of health insurance coverage to all eligible individuals.
- Not impose any preexisting condition exclusions on eligible individuals.
- Include at least one policy form of coverage that is comparable to either one of the following:

+ Comprehensive health insurance coverage offered in the individual market in the State.
+ A standard option of coverage available under the group or individual health insurance laws in the State.

- Implement one of the following:

+ The National Association of Insurance Commissioners (NAIC) Small Employer and Individual Health Insurance Availability Model Act, as it applies to individual health insurance coverage, *or* the Individual Health Insurance Portability Model Act, as adopted on June 3, 1996.
+ A qualified high-risk pool that provides for the following:
—Health insurance coverage (or comparable coverage) to all eligible individuals that does not impose any preexisting condition exclusion with respect to this coverage for all eligible individuals.
—Premium rates and covered benefits for that coverage consistent with standards included in the NAIC Model Health Plan for Uninsurable

Individuals Act in effect on August 21, 1996.

+ Another mechanism—

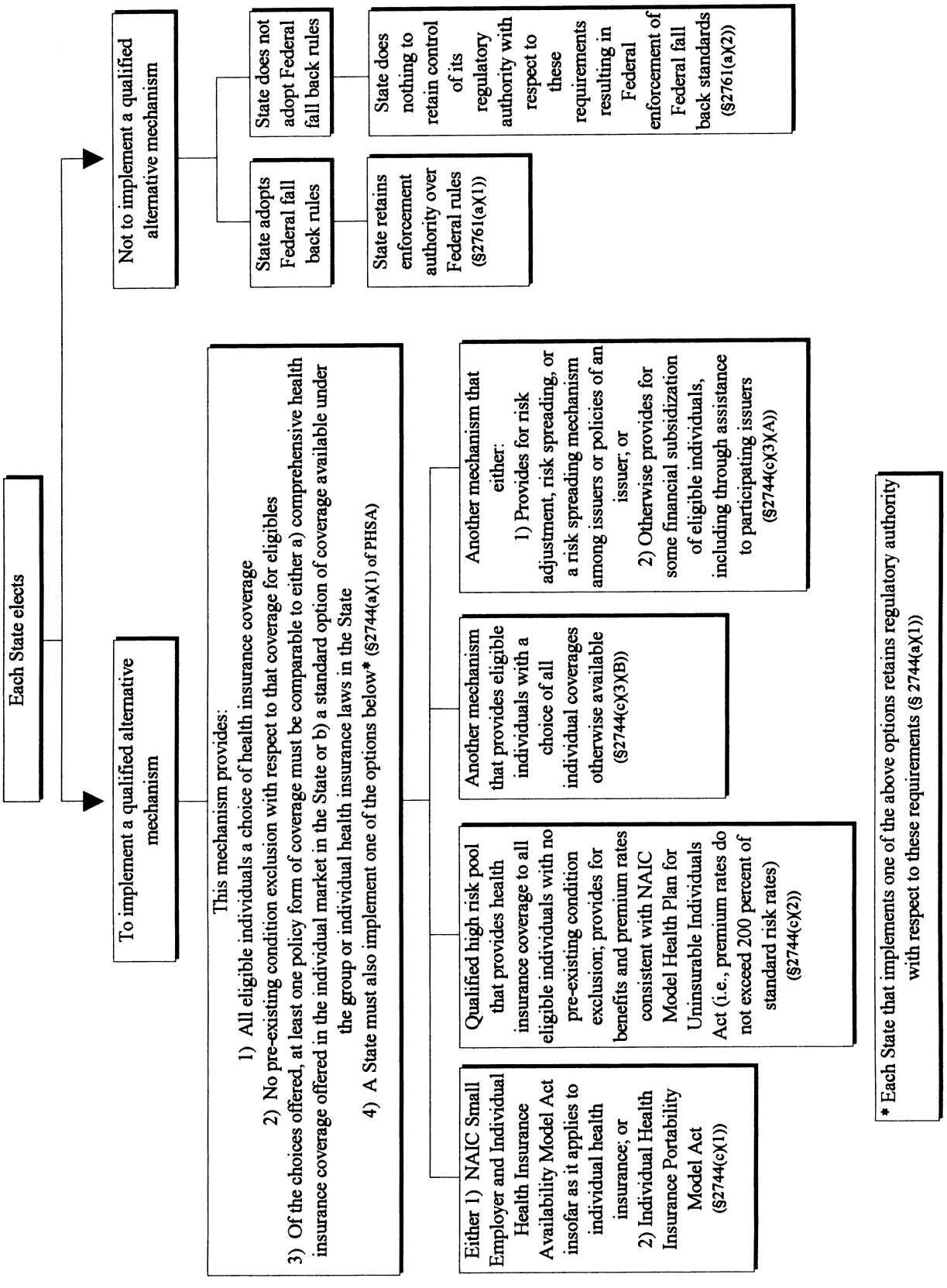
—That provides for risk adjustment, risk spreading, or a risk-spreading mechanism (among issuers or policies of issuers) or otherwise provides for some financial subsidization for eligible individuals, including through assistance to participating issuers, or

—Under which each eligible individual is provided a choice of all individual health insurance coverage otherwise available.

If a State adopts into law or regulation any provisions from the NAIC Model Acts cited in section 2744 of the PHS Act, it must verify that none of the Model Acts would prevent the application of a requirement of the PHS Act, and therefore be preempted. Since those Model Acts predate the enactment of HIPAA, they do not fully conform with HIPAA requirements that apply to eligible individuals. The NAIC is currently analyzing these Model Acts to provide guidance to States in identifying revisions that would conform with the provisions of the PHS Act. (See later discussion in section VI.C.3. of this notice.)

State options for ensuring that eligible individuals have access to the individual health insurance market are illustrated in the chart below.

BILLING CODE 4120–01–P



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V. Presumption of an Acceptable Alternative Mechanism

An acceptable alternative mechanism includes a private or public individual health insurance mechanism that is designed to provide access to health benefits for individuals in the individual market in the State in accordance with section 2744 of the PHS Act. Examples of an acceptable alternative mechanism may include a health insurance coverage pool or program, a mandatory group conversion policy, guaranteed issue of one or more plans of individual health insurance coverage, open enrollment by one or more health insurance issuers, or a combination of these mechanisms that meet at least the minimum standards under section 2744.

A. State Submission by April 1, 1997

A State is presumed to be implementing an acceptable alternative mechanism as of July 1, 1997, if, by not later than April 1, 1997, the Chief Executive Officer (generally the Governor) of the State notifies us that the State has enacted or intends to enact any necessary legislation as of January 1, 1998, and provides us with the information necessary to review the mechanism and its implementation (or proposed implementation), and, if, within 90 days after receiving the State's submission, we do not disapprove it as described in section VII.B. of this notice. (If we notify the State of our need for additional information or further discussions on its submission, we will suspend the review period until the State provides the necessary information or participates in the necessary discussions. If the State chooses not to provide the necessary information or our discussions with the State cannot be concluded satisfactorily, we may disapprove the State's submission.) The State must provide information necessary for us to review the mechanism's implementation every 3 years to continue to be presumed to have an acceptable alternative mechanism.

B. State Submission After April 1, 1997

A State may presume that we have accepted its proposed alternative mechanism if—

- After April 1, 1997, the State submits notice and sufficient documentation (see section VI of this notice) for either an initial proposed alternative mechanism or revisions to an already submitted proposed alternative mechanism, and
- We make no determination disapproving the mechanism within 90 days (or a longer period if we suspended the 90-day review period awaiting additional information or to conduct further discussion with the State).

After an additional 90 days, the State may presume its alternative mechanism to be an acceptable alternative mechanism. (For further information on future adoptions and revisions see section VI.D.5. of this notice.)

VI. Notification, Documentation, and Review

A. Notification

Under section 2744(b) of the PHS Act, except as described below in section VII.B., a State is presumed to be implementing an acceptable alternative mechanism as of July 1, 1997, if, by not later than April 1, 1997, the Chief Executive Officer (generally the Governor) of the State takes the following two actions:

- Notifies us that the State has enacted, or intends to enact, by January 1, 1998 (or July 1, 1998 if the State legislature cannot meet before August 21, 1997) any necessary legislation to provide for the implementation of a mechanism reasonably designed to be an acceptable alternative mechanism as of January 1, 1998 (or July 1, 1998 if the State legislature cannot meet before August 21, 1997).
- Provides us with the information necessary for us to review the mechanism and its implementation (or its proposed implementation).

B. Documentation

Since the law gives States substantial flexibility in devising alternative mechanisms, we do not intend that this notice set forth a checklist of criteria. If a State chooses to submit a proposed alternative mechanism, the State must determine what to submit. We must, however, be able to determine whether the mechanism will be both designed and enforced in a way that will ensure that eligible individuals are given the required access to insurance coverage. Our review will focus on results for eligible individuals. Our main concern is that the State submission show the analysis and the reasoning behind the design of the proposed alternative mechanism, and a reasonable assessment of the likelihood that the mechanism will achieve the legislative objectives.

Since time will be of the essence in reviewing a large volume of submissions and responding to the States timely, we recommend that a State provide summaries and full text of any critical supporting information (such as the text (or proposed text) of legislation or regulations) in its initial State submission. If we notify the State of our need for additional information or further discussions on its submission, we will suspend the review period until the State provides the necessary information or participates in the necessary discussions. If the State chooses not to provide the necessary information or our discussions with the State cannot be concluded satisfactorily, we may disapprove the State's submission. We discuss disapproval and the consequences of disapproval in sections VII.B. and C. of this notice.

The submission must include sufficient information to provide us with a reasonable basis for concluding that the proposed alternative mechanism meets the requirements described in section VI.C. of this notice. Along with a detailed description of the alternative mechanism and how it will be implemented and function, we recommend the State include the following information:

- *Contact Person*—The name, position title, address, and telephone number of the person to whom we should address all questions and contacts concerning the proposed alternative mechanism.
- *State Legislative Calendar*—Clear and prominent identification of needed State legislative action and the State legislature's sessions. We need to know of any legislative issues affecting a State's ability to implement an alternative mechanism so that we can determine priorities for reviewing State submissions. Also, the State should submit a description of the authority and procedures it follows for calling a special or emergency legislative session, if these exist.
- *State Laws and Regulations*—A summary and copies of the full text of existing State laws and regulations pertaining to the individual health insurance market. Laws and regulations that could be critical to an adequate analysis include the following:

+ Medical underwriting and rating restrictions.
+ Restrictions on preexisting condition exclusions.
+ Guaranteed issue requirements.
+ Solvency requirements.

If a State chooses to implement an ''other mechanism'' described in section 2744(c)(3) of the Act, we recommend that the State submit a more detailed description of the mechanism than it would if it planned to implement a mechanism that relies on one of the three NAIC Model Acts referenced in section 2744 of the PHS Act. In particular, unless the State chooses to

provide a choice to eligible individuals of all individual policies sold in the State, the State should describe in detail how the risk associated with serving all anticipated eligible individuals would be spread under the mechanism and how the additional cost associated with serving this new population would be subsidized.

The following examples illustrate the differences in documentation that a State may submit, based on differences in the State's legislation and proposed alternative mechanism.

• *Example 1*—State A has already adopted a comprehensive reform for its individual health insurance market. The State now prohibits preexisting condition limitations on coverage, provides for guaranteed issue and guaranteed renewability, and has taken active steps to ensure the participation of insurers in the State individual health insurance market. State A submits, in addition to its recent law (which was adopted before August 21, 1996, the enactment date of HIPAA), two analyses: the first identifies technical amendments to make its recent law consistent with HIPAA; the second shows that any eligible individual under HIPAA also would be eligible for the individual market under the State law. The State's submission also shows that the State's residency requirements would not prevent any HIPAA-eligible individual from entering the individual market without causing a break in coverage.

• *Example 2*—State B has a State high-risk pool, but that pool has a significant waiting list or appears to be entering a ''premium death spiral.'' State B offers an improved risk pool legislative and funding package. Because the financial stability of the existing risk pool is known to be in question, State B includes, in considerable detail, analyses of the projected revenue, subsidies, and financial condition of the pool under the proposed law. State B also specifies how HIPAA-eligible individuals will be able to enter the risk pool without causing a break in coverage.

A State may wish to submit other information, depending on the extent of the changes the State is planning and its relevance to the State's proposed alternative mechanism. Some examples follow:

• *Characteristics of the Existing Individual Market*—Analysis of information relating to the existing availability and sale of individual health insurance to the current population of the State. Examples of this information might be a description of the policy forms currently available in the individual market in the State; numbers of policies held under each form; current population of the State; estimated percentage of that population currently covered under group plans or coverage other than individual coverage; and estimated uninsured population.

• *Projected Market Impact of the Alternative Mechanism*—The State's best estimate of the number of eligible individuals who will need to be served under the proposed alternative mechanism, including a description of the factors the State considered in determining the size of the affected population, how the mechanism will serve the needs of the affected population, how much the mechanism serving this population will cost, and how those costs will be borne. In describing its population of eligible individuals or potentially eligible individuals in the individual health insurance market, the State may want to consider the relative prevalence of certain groups of individuals in the State and how the alternative mechanism will affect the likely number of individuals eligible for coverage under the mechanism. For a mechanism that will rely on State-supported operations such as risk pools and other risk-spreading mechanisms, the State should show the level and source of funding needed to provide for the needs of the eligible or potentially-eligible individuals.

Groups whose relative size may be large enough to have substantial impact on the number of eligible, as well as ineligible, individuals include the following:

+ Individuals eligible for Medicaid (especially if the State has a waiver under section 1115 of the Social Security Act that expands eligibility for Medicaid and would thus make these people ineligible under HIPAA for transition to the individual market).
+ Individuals eligible for Medicare.
+ Individuals who are receiving medical coverage under special programs such as the Indian Health Service. These individuals may meet the definition of an ''eligible individual,'' but their eligibility for coverage under the Indian Health Service program may make it unlikely that they would purchase private health insurance.
+ Individuals who elect and exhaust their continued group health plan coverage under COBRA or coverage under a similar State requirement.
+ Individuals who do not have the COBRA protection (or similar protection under a State requirement) and will be entering the alternative mechanism directly as an eligible individual. For example, an individual whose employer stops offering health insurance coverage may be eligible for coverage under the alternative mechanism without waiting for the COBRA continuation period to end.

C. Standard of Review

1. General

We will base our review on certain principles set forth in the statute and legislative history. The statute clearly requires us to make a substantive determination whether a mechanism is an ''acceptable alternative mechanism'' that meets all of the requirements set forth in the statute. However, while, as noted in section II of this notice, no State requirement can prevent the application of a requirement of HIPAA, the Conference Report that accompanied that legislation states that the conferees intended the narrowest preemption. This notice describes how we intend to apply these principles.

2. Statutory Requirements

We will review each State's submission to determine whether it addresses *each* of the following requirements:

• Is the mechanism reasonably designed to provide all eligible individuals with a choice of health insurance coverage?

• Does the choice offered to eligible individuals include at least one policy form that meets the following requirements?

+ Is comparable to comprehensive health insurance coverage offered in the individual market in the State.
+ Is comparable to a standard option of coverage available under the group or individual health insurance laws of the State.

• Does the mechanism provide access to coverage for all eligible individuals within Federal time frames?

• Does the mechanism prohibit preexisting condition exclusions for all eligible individuals?

• Is the State implementing one of the following?

+ The NAIC Small Employer and Individual Health Insurance Availability Model Act (Availability Model), adopted on June 3, 1996.
+ The Individual Health Insurance Portability Model Act (Portability Model), adopted on June 3, 1996.
+ A qualified high-risk pool that provides eligible individuals health insurance or comparable coverage without a preexisting condition

exclusion, and with premiums and benefits consistent with the NAIC Model Health Plan for Uninsurable Individuals Act (as in effect August 21, 1996).

+ A mechanism that provides for risk spreading or provides eligible individuals with a choice of all available individual health insurance coverage.

• Has the State enacted all legislation necessary for implementing the alternative mechanism?

+ If not, will the necessary legislation be enacted by January 1, 1998?

+ If not, is the State legislature meeting during the 12-month period beginning August 21, 1996 and ending August 20, 1997?

3. Concern About Using NAIC Models

As discussed previously, while the statute recommends the use of certain NAIC Model Acts and references them by specific adoption dates, these Model Acts contain certain provisions that are inconsistent with HIPAA requirements. If inconsistencies exist, a State must alter these provisions as they apply to eligible individuals under HIPAA so that its mechanism conforms with the Federal requirements. For example, if a State uses the Portability Model (which permits the use of preexisting condition exclusions and affiliation periods), it must distinguish between Federally-eligible individuals and all others served under the State's rules. As long as it exempts all Federally-eligible individuals from any preexisting condition exclusions or affiliation periods, the State may still use (with respect to non-Federally-eligible individuals in the individual market) the preexisting condition and affiliation rules of the Portability Model.

Although the following is not an all-inclusive list, we note the following additional discrepancies between the NAIC Model Acts and HIPAA requirements:

• The Portability Model permits only a 31-day break in coverage for individuals rather than the 62-day break permitted by section 2701(c)(2) of the PHS Act. Federally-eligible individuals must be given at least the 62-day break required under section 2701(c)(2).

• The Availability Model contains a definition of ''qualifying coverage'' that excludes coverage under a group health plan that is regulated under ERISA. Under HIPAA, however, the definition of ''creditable coverage'' clearly includes coverage under a ''group health plan,'' which is defined to include self-insured plans regulated under ERISA.

• Certain key concepts (for example, ''eligible person,'' ''preexisting condition,'' and ''qualifying coverage'') are defined in both the Availability and Portability Models somewhat differently than in HIPAA. To the extent that State law incorporates or plans to incorporate portions of the Models that use those terms, the State must ensure that use of these terms does not prevent the application of HIPAA protections to eligible individuals. This may be done simply by applying special provisions to those eligible individuals.

• The Availability and Portability Models also contain residency requirements that cannot be applied to HIPAA-eligible individuals.

• If a State uses the NAIC Model Health Plan for Uninsurable Individuals Act, certain otherwise acceptable high-risk pool practices such as ''wait-listing'' individuals or applying preexisting condition exclusions are not permitted with respect to HIPAA-eligible individuals.

4. Interim Response to Frequently Asked Questions

We recognize that States would like to have answers now to questions such as whether a difference in deductibles constitutes enough choice or how comprehensive a policy must be to be an acceptable offering. However, this document is a procedural notice and not a regulation. Until we issue regulations dealing with these and other issues, States must make a good faith effort to interpret the statute as best they can when proposing an alternative mechanism before April 1, 1997. Should any discrepancies later emerge between a State's interpretation of the statute and our interpretation, as expressed in the interim final rule that we expect to publish by April 1, 1997, we plan that the Federal rules will apply prospectively and will afford a transition period that will give a State an adequate opportunity to amend its mechanism to conform with any new regulation requirements. We will include rules on the transition period in the interim final rule.

D. Notification Procedure

1. Advance Notification Requested

We request that a State notify us in writing or by e-mail (iritf@hcfa.gov) of its intent to submit or not to submit an alternative mechanism. If we do not hear from a State by February 14, 1997, we will contact the State to find out its intention regarding the submission of an alternative State mechanism. The law does not create a requirement that States notify us of their intentions, but notification will help us plan our work to meet the statutory deadlines.

If a State does not plan to offer an alternative mechanism, we request that the State advise us of its plans to implement the Federal requirements.

If a State does not plan to offer either an alternative mechanism, or to implement the Federal requirements, we request that the State advise us as soon as possible so that we may begin action to implement Federal enforcement of the Federal requirements in the State.

2. Contents of Notification Package

We request that a State's submission be submitted in duplicate and be accompanied by a cover letter, signed by the Chief Executive Officer (generally the Governor) of the State. In addition, States should include a brief summary of their legislative calendars and note any deadlines that are significant to this review process. We are requesting that States submit two copies of their proposed alternative mechanisms to assist us in timely review of their submissions. Our regional offices may assist us in reviewing the States' submissions and we wish to avoid any delays that may occur in reproducing these submissions.

3. Deadline

We must receive all submissions from the States no later than April 1, 1997 in order for the State to qualify for the presumption that it is implementing an acceptable alternative mechanism as of July 1, 1997. For official confirmation of our receipt date, we suggest that States use the postal certification services of the United States Post Office.

No later than 90 days after we receive a State's proposed alternative mechanism, we will take at least one of the following actions:

• Notify the State that we have accepted its proposed alternative mechanism. (This notification may be before the 90-day review period ends.)

• Make no determination concerning the State's alternative mechanism; therefore, the State may presume we have accepted its alternative mechanism.

• Forward to the State a request for additional information or a notification that we need to discuss further with the CEO (or his or her designee) the proposed alternative mechanism. We expect to make requests for additional information or initiate discussions as soon as possible after receiving the State's proposed alternative mechanism. If we notify the State of our need for additional information or further discussions on its submission, we will suspend the review period until the State provides the necessary information or participates in the

necessary discussions. If the State chooses not to provide the necessary information or our discussions with the State cannot be concluded satisfactorily, we may disapprove the State's submission. We discuss disapproval and the consequences of disapproval in sections VII.B. and C. of this notice. The State may contact us for information on implementing the Federal default requirements.

4. Where To Submit a Package

We request each State submit its proposed alternative mechanism, in duplicate, to the following address: HCFA, Bureau of Policy Development, Office of Chronic Care and Insurance Policy, Insurance Reform Implementation Task Force, S–LL–17, Attention: Marc Thomas, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

5. Future Adoptions and Revisions

A State with an approved alternative mechanism may request approval of revisions to its alternative mechanism. Similarly, a State operating under the Federal default provisions may, at any time, submit a proposed alternative mechanism. The State should mail its submission to the above address. We request that future revisions to already approved mechanisms be submitted no earlier than July 1, 1997.

E. Continued Presumption for States Entitled to Statutory Delay

In accordance with section 2744(b) of the PHS Act, States whose legislatures do not meet within the 12-month period beginning August 21, 1996 and ending August 20, 1997, and that need legislative authority in order to enact an acceptable alternative mechanism may qualify for extended deadlines for implementing an acceptable alternative mechanism. To qualify for an extension, the State must comply with the following deadlines:

- In order for the State to be entitled to the presumption that it has an acceptable alternative mechanism in effect as of July 1, 1997, the Chief Executive Officer (generally the Governor) must notify us by April 1, 1997 about the following:

+ The State legislature has not and will not meet during the 12-month period beginning August 21, 1996 and ending August 20, 1997.
+ The State intends to implement an alternative mechanism by July 1, 1998.

- In order for the presumption to continue on and after July 1, 1998, the State must—

+ Notify us by April 1, 1998 that the State has enacted any necessary legislation to provide for implementation of an acceptable alternative mechanism as of July 1, 1998, and
+ Provide us with the information described in this section to enable us to review the mechanism and its implementation.

VII. Notification to the State

A. Time Frames

For State submissions received by April 1, 1997, we will do a preliminary review to determine whether the package appears to be complete enough for us to make a determination. If not, we will notify the State by telephone and in writing, and provide the State the opportunity to submit supplemental information. We will issue a written response to each State's request as soon as possible, and no later than 90 days after receipt of the State's submission.

B. Disapproval

In accordance with section 2744(b)(2) of the PHS Act, we will review the information submitted and make a preliminary determination whether the State has or has not submitted an acceptable alternative mechanism.

If our preliminary determination is that the mechanism is not acceptable, we will consult with the Chief Executive Officer (generally the Governor) of the State, or his or her designee, and the State Insurance Commissioner or the Chief Insurance Regulatory Official of the State. If after these consultations, we still conclude that the State's alternative mechanism is not acceptable, we will—

- Notify the State of that determination; and
- Inform the State that if the State fails to implement an acceptable alternative mechanism, the Federal default provisions will take effect.

If we disapprove a State's proposed alternative mechanism, we will give the State a reasonable opportunity to modify the mechanism (or to adopt another mechanism).

C. Consequences of Disapproval and Enforcement Action

If we make a final determination that (1) the design of a State's alternative mechanism is not acceptable or (2) the State is not substantially enforcing an otherwise acceptable alternative mechanism, we will notify the State in writing of our determination. We will provide the State with notice that the requirements of section 2741 of the PHS Act apply to health insurance coverage offered in the individual market in the State, effective as of a date specified in our notice.

VIII. Alternative Coverage Where There Is No State Mechanism

In accordance with section 2741(c) of the PHS Act, if a State is not implementing an acceptable alternative mechanism, a health insurance issuer may elect to limit coverage offered through the individual market within prescribed parameters. The issuer may limit the individual market coverage offered as long as there are two different policy forms of coverage offered. Both policy forms must be designed for, made generally available to, actively marketed to, and enroll both eligible and other individuals, and meet one of two requirements regarding policy forms described in section 2741(c)(2) or (c)(3) of the PHS Act.

Under section 2741(c)(2), the health insurance issuer must offer the policy forms for individual health insurance coverage with the largest, and next to largest, premium volume of all similar policy forms offered by the issuer in the State or applicable marketing or service area by the issuer in the individual market for the period involved. Under section 2741(c)(3), the health insurance issuer must offer a lower-level coverage policy form that meets the requirements of section 2741(c)(3)(B) and a higher-level coverage policy form that meets the requirements of section 2741(c)(3)(C). Each of these policy forms must include benefits substantially similar to other individual health insurance coverage offered by the issuer in the State and each must be covered under a method described in section 2744(c)(3)(A) pertaining to risk adjustment, risk spreading, or financial subsidization.

IX. Information Collection Requirements

Under the Paperwork Reduction Act of 1995, agencies are required to provide 60-day notice in the Federal Register and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. This notice contains information collections that are subject to review by OMB under the Paperwork Reduction Act of 1995. The title, description, and respondent description of the information collections are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and

collecting and reviewing the collection of information.

We are, however, requesting an emergency review of this notice. In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the OMB the following information collection for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR, part 1320. So that a State does not have to incur the burden of temporarily implementing the Federal default requirements or live under Federal enforcement of those requirements, HIPAA requires a State to submit to us its proposed alternative mechanisms by April 1, 1997. A State may voluntarily submit the suggested information collection referenced in this notice when it submits its proposed alternative mechanisms. The description of the information collection will assist a State in submitting sufficient information for our review of its proposed alternative mechanisms.

We are requesting that OMB provide a 2-day public comment period with a 2-day OMB review period and a 180-day approval. During this 180-day period, we will publish a separate Federal Register notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Request: New collection.

Title of Information Collection: Notification Procedures for States Implementing ''Alternative Mechanisms'' in the Individual Health Insurance Market and Supporting Notice (BPD–882–N).

Form Number: HCFA–R–202.

Use: To outline the documentation for States to obtain Federal approval of a State's alternative mechanism under section 111 of HIPAA.

Frequency: On occasion.

Affected Public: States.

Number of Respondents: 55.

Total Annual Responses: 55.

Total Annual Hours Requested: 66,000.

In summary, the information collection referenced in section VI. ''Notification, Documentation, and Review'' provides that each State electing to implement an alternative mechanism notify us that the State has enacted, or intends to enact, any necessary legislation to provide for the implementation of a mechanism reasonably designed to be an acceptable alternative mechanism and provides us with the information to review the mechanism and its implementation (or proposed implementation).

If a State chooses to submit a proposed alternative mechanism, the State must submit sufficient information to provide us with a reasonable basis for concluding that the proposed alternative mechanism meets the criteria described in section VI.C.2. of this notice. Along with a detailed description of the alternative mechanism and how it will function, we recommend the State include the name of a contact person, State Legislative Calendar, and text of existing State laws and regulations pertaining to the individual health insurance market.

If a State chooses to implement an ''other mechanism'' described in section 2744(c)(3) of the Act, we recommend that the State submit a more detailed description of the mechanism than it would if it planned to implement a mechanism that relies on one of the three NAIC Model Acts referenced in section 2744 of the PHS Act.

To request copies of the proposed information collections referenced above, call the Reports Clearance Office on (410) 786–1325.

The information collections of this notice are not effective until they have been approved by the OMB. We have submitted a copy of this notice to the OMB for its review of these information collections. A notice will be published in the Federal Register when approval is obtained. Interested persons are invited to send comments regarding this burden or any other aspect of these collections of information, including any of the following subjects: (1) The necessity and utility of the information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Comments on these information collections may be faxed to Allison Herron Eydt at 202–395–6974 or mailed directly to the following address: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer. A copy of the comments may be mailed to the following address: Health Care Financing Administration, Office of Financial and Human Resources, Management Analysis and Planning Staff, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850.

X. Waiver of Solicitation of Comments

This notice announces the options a State has under section 111 of HIPAA to ensure that eligible individuals have access to the individual health insurance market. As has been our custom, we use general notices, rather than formal notice and comment rulemaking procedures, to make these announcements. In doing so, we acknowledge that, under the Administrative Procedure Act, interpretive rules, general statements of policy, and rules of agency organization, procedure or practice are excepted from the requirements of notice and comment rulemaking.

This notice does not establish new policy or requirements beyond those found in the statute. We are publishing this notice to assist a State that chooses to submit a proposed alternative mechanism under section 111 of HIPAA. We intend that the information we have identified in this notice provide guidance to a State and assist it in submitting sufficient information to enable us to approve the State's proposed alternative mechanism. We intend that this information assist a State to implement timely HIPAA provisions under its own State requirements. This would prevent the need for a State to comply with Federal requirements and subsequently transition to the State's requirements after we approve a State's proposed alternative mechanism. We wish to avoid an unnecessary burden on the State.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Authority: Section 2741 of the Public Health Service Act.

Dated: December 17, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Approved: December 20, 1996.

Donna E. Shalala,

Secretary, Health and Human Services.

[FR Doc. 97–672 Filed 1–10–97; 8:45 am]

BILLING CODE 4120–01–P

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National

Advisory body scheduled to meet during the month of February 1997.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: February 6–9, 1997.

Place: Radisson Hotel, La Jolla, 3299 Holiday Court, La Jolla, California 92037.

The meeting is open to the public.

Agenda: Agenda items include updates on the National Health Service Corps program, meetings with current and former NHSC providers; presentations on managed care, academic-community educational linkages, and the future role of the Corps; and meetings of NHSC workgroups on new environment strategies, health system linkages, and mission coalition building.

The opening meeting will be held on Thursday, February 6 from 6:00 p.m. to 9:00 p.m. and will include an orientation session for new Council members. On friday and Saturday, meetings will begin at 9:00 a.m. and conclude around 7:00 p.m. Sunday's meeting will begin at 9:00 a.m. and adjourn around noon.

The meeting is open to the public. Anyone requiring information regarding the subject Council should contact Ms. Jewel Davis, National Advisory Council on the National Health Service Corps, Health Resources and Services Administration, 8th floor, 4350 East West Highway, Rockville, Maryland 20857, Telephone (301) 594–4144.

Agenda Items are subject to change as priorities dictate.

Dated: January 7, 1997.

J. Henry Montes,

Director, Office of Policy and Information Coordination, HRSA.

[FR Doc. 97–724 Filed 1–10–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Reopening of Comment Period on Draft Recovery Plan for the Wetland and Aquatic Species of the Owens Basin, Inyo and Mono Counties, California and Related Public Information Workshops

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of comment period and related public information workshops.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the reopening of the comment period for a draft recovery plan for endangered, proposed, and species of concern found in the wetland and aquatic habitats of the Owens Basin in Inyo and Mono Counties, California, and related public information workshops. The recovery plan targets recovery of 11 species found throughout the Owens River drainage on Federal, State and private lands. Also available for review is the draft Owens Basin Management Guidelines Plan for rare species. The Service solicits review and comment from the public on these draft plans. Three public information workshops will be held in conjunction with the reopening of the comment period.

DATES: Comments on the draft recovery plan and/or Management Guidelines Plan must be received on or before April 14, 1997 to ensure consideration by the Service.

Public information workshops will be held:

Tuesday, February 11, from 6 to 8 p.m. in the Mammoth High School, Multipurpose Room, 365 Sierra Park Road, Town of Mammoth Lakes;

Wednesday, February 12, from 6 to 8 p.m. in the Eastern Sierra Tri-County Fairgrounds, Home Economics Building, Sierra Street and Fairgrounds Drive, Bishop; and

Thursday, February 13, from 6 to 8 p.m. in Statham Hall, corner of Jackson and Bush, Lone Pine, California.

ADDRESSES: The draft recovery plan and/or Management Guidelines Plan are available for public inspection, by appointment, during regular business hours (7:30 a.m. to 4:30 p.m. Monday through Friday) at the Service's Ventura Field Office, 2493 Portola Road, Suite B, Ventura, California, 93003, phone 805–644–1766. Copies of the draft plans may also be obtained by written or phone request to the Ventura Field Office. (Note: Copies of the draft Management Guidelines Plan will automatically be mailed to all parties who received the draft recovery plan during its previous release.) Comments and materials regarding the plan should be addressed to the Field Supervisor at the Ventura Field Office. Comments and materials received will be available for public inspection upon request, by appointment, at the Ventura Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Carl Benz, Assistant Field Supervisor, Division of Listing and Recovery, in the Ventura Field Office (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

On August 26, 1996, the Service published a notice of availability for public review of a draft recovery plan for endangered, proposed, and species of concern found in the wetland and aquatic habitats of the Owens Basin in Inyo and Mono Counties, California. The original comment period closed on October 25, 1996. The draft Management Guidelines Plan was not completed at that time and therefore not available for public review.

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide recovery efforts, the Service prepares recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of listed species, establish criteria for the recovery levels for reclassification from endangered to threatened or removal from the list, and estimate the time and cost for implementing the needed recovery measures.

The Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will take these comments into account in the course of implementing approved recovery plans.

The draft recovery plan for the Owens Basin wetland and aquatic species addresses conservation of the following species: Owens tui chub, Owens pupfish, Fish Slough milk-vetch, Owens speckled dace, Long Valley Speckled dace, Inyo County mariposa lily, Owens Valley checkerbloom, Fish Slough springsnail, Owens Valley springsnail, Aardhal's springsnail, and Owens Valley vole. Owens tui chub and Owens pupfish are federally listed as endangered, and the Fish Slough milk-vetch has been proposed for listing as endangered. All of these species are threatened by loss and degradation of wetland and aquatic habitats.

The draft recovery plan was developed in accordance with the Service's recent policy emphasizing an ecosystem approach to conservation of endangered species. The goal of the recovery plan is to restore the target species to secure status within their natural habitats. Protecting the ecosystem of endangered species in the Owens Basin will also protect other locally rare species, and, it is hoped, avert future declines in plant and wildlife populations that could lead to future listings.

The draft recovery plan was developed with the participation of

State and Federal land management agencies, local agencies and property owners, including the California Department of Fish and Game, U.S. Bureau of Land Management, Inyo National Forest, and the Los Angeles Department of Water and Power. The plan calls for restoration of wetland and aquatic habitats throughout the Owens River drainage. The plan describes tasks that, when accomplished, should ensure the survival of target species, and thereby justify their removal from the endangered and threatened species list.

The draft Management Guidelines Plan for rare species was completed to provide management guidance to the Department of Fish and Game. The Management Guidance Plan is supplemental to, but independent from, the draft recovery plan. In essence, they are separate documents.

Public Comments Solicited

The Service solicits written comments on the draft recovery plan and Management Guidelines Plan described herein. All comments received by the date specified above will be considered prior to approval of the plan or completion of a final Management Guidelines Plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: January 3, 1997.

Thomas J. Dwyer,

Acting Regional Director.

[FR Doc. 97–721 Filed 1–10–97; 8:45 am]

BILLING CODE 4310–55–P

Notice

Notice of Scoping Meeting on Intent to Prepare Environmental Impact Statement in Anticipation of Receiving a Permit Application to Incidentally Take Listed Species From the Endangered San Marcos and Comal Springs Ecosystems Under Section 10(a) of the Endangered Species Act, by the Bexar Metropolitan Water District and Possibly Others, Comal, Bexar, and Hays Counties, Texas

ACTION: Notice of Intent to prepare an environmental impact statement and announcement of scoping meeting.

SUMMARY: This notice advises the public that the Fish and Wildlife Service (Service) intends to gather information necessary to prepare an Environmental Impact Statement (EIS) for an anticipated incidental take permit application, including a required Habitat Conservation Plan, from the Bexar Metropolitan Water District (District) and possibly others. The species proposed to be taken from the San Marcos and Comal Springs Ecosystems (Edwards Aquifer), include the federally-listed San Marcos gambusia (*Gambusia georgei*), fountain darter (*Etheostoma fonticola*), and Texas wild-rice (*Zizania texana*).

This notice is provided as required by the Endangered Species Act (Act) of 1973, as amended (16 U.S.C.1531 *et seq.*), (50 CFR 17.22) and National Environmental Policy Act (40 CFR 1501.7) regulations.

The Service is soliciting information and comments on the scope of issues to be addressed in the EIS. The National Environmental Policy Act (NEPA) process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the human environment. NEPA scoping procedures are intended to insure that information on the proposed action, alternatives and impacts are solicited from the public, and that all information is available to public officials and citizens before planning decisions are made. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. NEPA documents concentrate on the issues that are significant to the action in question. The Service invites the public to submit information and comments either at a meeting on 13 February 1997, or in writing. The Service requests that comments be as specific as possible.

Major environmental and species concerns in this scoping process include the direct, indirect, and cumulative impacts that implementation of the proposal could have on endangered and threatened species, critical habitat, and other environmental resources, and the quality of the human environment. Other relevant issues include effects of aquifer and water withdrawal levels on Comal and San Marcos spring flows, effects of various aquifer water use management options and alternative water supply options on the environments affected by those options, and effects on the downstream environment.

DATES: Written comments should be received on or before 1 May 1997. A public hearing for receipt of comments will be held in San Antonio, Bexar County, Texas, Thursday, 13 February 1997.

ADDRESSES: Comments should be addressed to Steve Helfert, Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 10711 Burnet Road, Suite 200, Austin, Texas 78758–4460. The public hearing will be held from 7 to 10 pm, at Dwight Middle School, 2454 W. Southcross, San Antonio, Texas 78211. For further information on the scoping meeting location contact Janie Valenzuela at Bexar Metropolitan Water District, 2047 West Malone, San Antonio, Bexar County, Texas 78225, (210) 345–6500.

FOR FURTHER INFORMATION CONTACT: Alisa M. Shull, U.S. Fish and Wildlife Service, at the above address, telephone (512) 490–0057, facsimile (512) 490–0974.

SUPPLEMENTARY INFORMATION: The Service proposes to prepare an EIS to evaluate the impacts of alternatives associated with issuing an incidental take permit under section 10(a)1(B) of the ESA. Several parties, including the Bexar Metropolitan Water District, have indicated an interest in pursuing incidental take authorization.

Section 9 of the ESA prohibits the taking of federally listed animal species, unless authorized under the provisions of section 7 or 10 of the ESA. The term ''take'' under the ESA includes actions that may directly kill or injure listed species, actions that significantly disrupt normal behavioral patterns such as feeding and breeding, and actions that detrimentally modify habitat to the extent that it harms individuals of the species.

Section 10(a)(1)(B) allows the Fish and Wildlife Service to permit taking of listed species provided that taking is incidental to an otherwise legal activity and that it will not jeopardize a listed species. A Habitat Conservation Plan (HCP) must be submitted as part of the incidental take permit application by the applicant.

The San Marcos and Comal Springs Ecosystems are dependent upon adequate springflow from the San Antonio Segment of the Edwards Aquifer to support endangered species and critical habitat, as well as several species proposed for federal listing. The Edwards Aquifer is the sole source of drinking water for over 1.5 million people in the San Antonio Metropolitan Region. Given the growing water use, anticipated for the San Antonio Region, an overall management plan seems necessary to assure the sustained springflow in the two systems.

Decline of springflow in the two systems will result in ''take'' of listed species and in an appreciable reduction of the value of critical habitat, and an appreciable reduction in the likelihood of survival and recovery of listed species. The Service has estimated minimum springflow for the two

systems necessary to avoid any of these conditions.

All parties who either directly withdraw Edwards Aquifer water or who reduce recharge to the aquifer, contribute to diminished springflows. Between late May and August 1996, minimum necessary flows were not sustained in either system, owing to widespread drought conditions and the level of a regional pumpage, particularly during emergency conditions. In August 1996, a Federal Court found that an emergency exists and ordered implementation of emergency measures in accord with the 1996 Emergency Withdrawal Reduction Plan, prepared by the court appointed Monitor.

Bexar Metropolitan Water District (District) is the second largest water purveyor in Bexar County, Texas and largely dependent upon withdrawals from the Edwards Aquifer.

The District proposes to adopt a Habitat Conservation Plan consistent with objectives of the approved San Marcos and Comal Springs and Associated Aquatic Ecosystems (Revised) Recovery Plan for the spring associated ecosystems, with the Federal Court ruling, and with Sections 9 and 10 of the Endangered Species Act. The District proposes to reduce its pumpage from the Edwards Aquifer on a pro rata basis to achieve compliance with the Withdrawal Reduction Plan. The District proposes to accomplish this purpose by implementing one or more measures, including but not limited to: development of alternative water resources (ground-water resources, surface water resources, reuse of treated effluents, etc.), landscape management practices (Xeriscape™, zoned irrigation, designated watering days, etc.); employment of water efficient devices; adoption of policies encouraging conservation; public education; deployment of alternative technologies in intensive water-using industries; other appropriate and effective measures; etc.

The District also proposes to include a mechanism in its Habitat Conservation Plan, for inclusion of other pumpers (municipal, industrial, commercial, or military) which, acting in concert with the District, meet certain criteria (for example, a target reduction rate in Edwards Aquifer withdrawals) that would be developed and included in the Habitat Conservation Plan and incidental take permit conditions.

In addition to considering impacts on listed species and their habitat, the EIS must include information on impacts from the proposal and alternatives to the proposal on other components of the human environment. These other components include such things as air and water quality, cultural resources, other fish and wildlife species, social resources, and economic resources.

The Fish and Wildlife Service is gathering information necessary for the preparation of an EIS. Information such as the following topics that would assist the Service in assessing the impacts of the issuance of an incidental take permit under the provisions of an HCP is being sought: the hydrogeology of the Edwards Aquifer and the effects of aquifer levels on springflows at Comal and San Marcos Springs as they relate to the habitat needs of federally listed species; potential water conservation measures and strategies to reduce the withdrawal demands on the Edwards Aquifer and their effects on springflows; alternate water supplies and their potential effect on reducing Edwards Aquifer water withdrawals and maintaining springflows; effects of aquifer level management and springflow changes on the quality of the human environment; and, any other issues or suggestions that would be relevant toward the Fish and Wildlife Service's review and development of alternatives.

Nancy M. Kaufman,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 97–722 Filed 1–10–97; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[(CA–067–7122–6606); CACA–35511]

Imperial Project, CA; Draft Environmental Impact Statement; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment.

SUMMARY: In the Federal Register of November 1, 1996 (Vol. 61, p. 56567), a notice was published (FR Doc. 96–27519). This amends that notice. Because of expressed interest, the comment period is extended an additional 31 days until January 31, 1997.

FOR FURTHER INFORMATION CONTACT: Keith Shone (619) 337–4412, or Thomas Zale (619) 337–4420.

Dated: December 31, 1996.

Patricia A. Weller,

Acting Area Manager.

[FR Doc. 97–649 Filed 1–10–97; 8:45 am]

BILLING CODE 4310–40–P

[OR–130–1020–00; GP7–0058]

Notice of Meeting of the Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management, Spokane District.

ACTION: Meeting of the Eastern Washington Resource Advisory Council; February 14, 1997, in Spokane, Washington.

SUMMARY: A meeting of the Eastern Washington Resource Advisory Council will be held on February 14, 1997. The meeting will convene at 9:00 a.m., at the Red Lion Inn, N. 322 Spokane Falls Ct., Spokane, Washington, 99201. The meeting will adjourn at approximately 4:00 p.m. or upon completion of business. At an appropriate time, the meeting will recess for approximately one hour for lunch. Public comments will be heard from 10:00 a.m. until 10:30 a.m. If necessary to accommodate all wishing to make public comments, a time limit may be placed upon each speaker. The purposes of the meeting are to discuss the status of the Interior Columbia Basin Ecosystem Management Project and the status of Standards for Rangeland Health and Livestock Grazing Guidelines.

FOR FURTHER INFORMATION CONTACT: Richard Hubbard, Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington, 99212–1275; or call 509–536–1200.

Dated: January 7, 1997.

Joseph K. Buesing,

District Manager.

[FR Doc. 97–723 Filed 1–10–97; 8:45 am]

BILLING CODE 4310–33–P

[CA–350–1610–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Susanville Resource Advisory Council, Susanville, California.

ACTION: Notice of Meeting.

SUMMARY: The Bureau of Land Management's Susanville Resource Advisory Council will hold a business meeting Friday, February 14, 1997, at the Bureau of Land Management's Eagle Lake Resource Area office, 2950 Riverside Drive, Susanville, California. The meeting begins at 10 a.m. and ends at 4 p.m. Public comments will be take at 1 p.m. Depending on the number of persons wishing to speak, a time limit may be imposed. Items on the agenda include an update on development of

Standards for Healthy Rangelands and Guidelines for Livestock Grazing, review of a subcommittee recommendation for transitional grazing guidelines, discussion about recreation user fees, an update on land tenure adjustments in the Alturas Resource Area, and activity updates from the Alturas, Eagle Lake and Surprise resource areas. The council will also elect new officers. Summary minutes of the meeting will be maintained in the BLM's Eagle Lake Resource Area Office, 2950 Riverside Drive, Susanville, CA, and will be available for public inspection and reproduction within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Jeff Fontana (916) 257–5381.

Linda D. Hansen,

Eagle Lake Resource Area Manager.

[FR Doc. 97–464 Filed 1–10–97; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Gas Research Institute Through-Casing Resistivity Logging Research Consortium

Notice is hereby given that, on December 9, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Gas Research Institute Through-Casing Resistivity Logging Research Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) The identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Gas Research Institute, Chicago, IL; Conoco, Inc., Ponca City, OK; Texaco, Inc., Bellaire, TX; Phillips Petroleum Company, Bartlesville, OK; Mobil E&P U.S., Midland, TX; Chevron Petroleum Technology Company, La Habra, CA; BP Exploration Operating Company Limited, Middlesex TW167LN, United Kingdom; Shell E&P Technology Company, Houston, TX; and ARCO Exploration & Production, Plano, TX.

The purpose of the Consortium is to fund a research project to develop interpretation techniqu4es for Through-Casing Resistivity Logging by testing the current research device, sponsoring laboratory or theoretical research or any other activity associated with Through-Casing Resistivity.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–675 Filed 1–10–97; 8:45 am]

BILLING CODE 4410–11–M

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; State Juvenile Corrections Organization Survey.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments until February 12, 1997. This process is conducted in accordance with 5 Code of Federal Regulation, Part 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534. Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of information collection: New collection.

(2) The title of the form/collection: State Juvenile Corrections Organization Survey.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection. Form: None. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Untied States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. Primary: State juvenile corrections agencies. Other: None. This collection will gather specific information on the various State statutes and policies that affect the juvenile custody rates and juvenile custody populations of each state. This information will aid in the analysis of juvenile corrections data.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 51 respondents at an average 6 hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 306 burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: January 8, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–737 Filed 1–10–97; 8:45 am]

BILLING CODE 4410–18–M

Bureau of Justice Statistics

Agency Information Collection Activities; Extension of a Currently Approved Collection; Comments Requested

ACTION: Notice of information collection under review; National Corrections Reporting Program.

This information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until March 14, 1997. This process is conducted in accordance with 5 CFR 1320.10.

Request written comments and suggestions from the public and affected agencies concerning the extension of this currently approved collection of information. Your comments should address one or more of the following four points:

(1) evaluate whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) evaluate the accuracy of the agencies' estimate of the burden of the collection of information, including the validity of the methodology and assumption used;

(3) enhance the quality, utility and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or need a copy of this information collection instrument with instructions, or have comments regarding the estimated public burden and associated response time please contact the United States Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (BJS), Corrections Unit, Attention, Doris James Wilson, 633 Indiana Ave, NW., Washington, DC 20531. Additionally, comments may be subjected to BJS via facsimile to 202–307–0128.

Additionally, comments may also be submitted to the U.S. Department of Justice, Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC. Additionally, comments may be submitted to DOJ via facsimile at 202–514–1590.

Overview of this information collection is listed below:

(1) Type of information collection. Extension of Currently Approved Collection.

(2) The title of the form/collection. National Corrections Reporting Program.

(3) The agency form number and the applicable component of the Department sponsoring the collection. Form: NCRP–1A, Prison Admission Report; NCRP–1B, Prison Release Report; and NCRP–1C, Parole Exit Report. Corrections Unit, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond as well as a brief abstract. Primary: State Departments of Corrections and the Federal Bureau of Prisons. The National Corrections Reporting Program (NCRP) is the only national level data collection, furnishing information on sentencing, time served in state prisons, and time served on parole. The NCRP also contains other individual-level data on prisoners, including offense, admission/release type, and demographies. The Bureau of Justice Statistics, the U.S. Congress, researchers, practitioners, and others in the criminal justice community use these data to enumerate and describe annual movements of adult offenders through State correctional systems. Providers of the data are personnel in the Department of Corrections and Parole in the states and the District of Columbia.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 41 respondents, with an average time of 2 hours per respondent.

(6) An estimate of the total public burden (in hours) associated with the collection: 1,648 hours annual burden (including initial time of data collection with respondent, consolidation/ automation of data, and reporting from 41 agencies/respondents.

Public comment on this information collection is strongly encouraged.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Justice Management Division, Information Management and Security Staff, Suite 850, 1001 G Street, NW., Washington, DC 20530.

Dated: January 8, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–748 Filed 1–10–97; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel (Creation & Presentation Section) to the National Council on the Arts will be held on February 3–7, 1997. The meeting will be held from 9:00 a.m. to 7:30 p.m. on February 3 & 4; from 9:00 a.m. to 8:30 p.m. on February 5; from 9:00 a.m. to 7:30 p.m. on February 6; and from 9:00 a.m. to 5:00 p.m. on February 7. This meeting will be held in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

A portion of this meeting, from 2:30 p.m. to 5:00 p.m. on February 7, will be open to the public for a discussion of guidelines and policy related issues. The remaining portions of this meeting, from 9:00 a.m. to 7:30 p.m. on February 3 and 4, from 9:00 a.m. to 8:30 p.m. on February 5; from 9:00 a.m. to 7:30 p.m. on February 6; and from 9:00 a.m. to 2:30 p.m. on February 7, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5691.

Dated: January 8, 1997.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 97–731 Filed 1–10–97; 8:45 am]

BILLING CODE 7537–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting

TIME & DATE: 2:30 p.m., Thursday, January 23, 1997.
PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, N.W., Suite 800, Board Room, Washington, D.C. 20005.
STATUS: Open/Closed.
CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/ Secretary, 202/376–2441.
AGENDA:
I. Call to Order
II. Approval of Minutes:
October 17, 1996, Regular Meeting
III. Audit Committee Report:
January 17, 1997 Meeting
a. Financial Statements and Independent Auditor's Report, September 30, 1996 & 1995
b. OMB Circular A–133 Report for FY 1996
c. Update Internal Audit Director Search (Oral Report)
IV. Treasurer's Report
V. Executive Director's Quarterly Management Report
VI. Personnel Committee Meeting:
November 21, 1996, Closed Meeting
VII. Adjourn

Jeffrey T. Bryson,

General Counsel Secretary.

[FR Doc. 97–834 Filed 1–9–97; 10:55 am]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–20]

U.S. Department of Energy; Notice of Consideration of Issuance of a Materials License for the Storage of Spent Fuel and Notice of Opportunity for a Hearing

The Nuclear Regulatory Commission is considering an application dated October 31, 1996, for a materials license, under the provisions of 10 CFR Part 72, from the U.S. Department of Energy (the applicant or DOE) to possess spent fuel and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation (ISFSI) located in Butte County, Idaho, within the Idaho National Engineering Laboratory (INEL) complex. If granted, the license will authorize the applicant to store spent fuel from the Three Mile Island Unit 2 reactor in a dry storage cask system at the ISFSI which the applicant proposes to construct and operate at the Idaho Chemical Processing Plant site within INEL. Pursuant to the provisions of 10 CFR Part 72, the term of the license for the ISFSI would be twenty (20) years.

Prior to issuance of the requested license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. The issuance of the materials license will not be approved until the NRC has reviewed the application and has concluded that approval of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to public health and safety. The NRC, in accordance with 10 CFR 51.20(b)(9), will complete an environmental impact statement. This action will be the subject of a subsequent notice in the Federal Register. Pursuant to 10 CFR 2.105, by February 12, 1997, the applicant may file a request for a hearing; and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the subject materials license in accordance with the provisions of 10 CFR 2.714. If a request for hearing or petition for leave to intervene is filed by the above date, an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for hearing or petition for leave to intervene is filed by the above date, the NRC may, upon satisfactory completion of all required evaluations, issue the materials license without further prior notice.

A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend a petition, without requesting leave of the Board, up to 15 days prior to the holding of the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfied these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the NRC by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. Charles J. Haughney, Acting Director, Spent Fuel Project Office, Office of

Nuclear Material Safety and Safeguards; petitioner's name and telephone number; date petition was mailed; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, as well as the applicant's legal counsel, Robin A. Henderson, U.S. Department of Energy, 1000 Independence Avenue, SW., GC–52, Washington, DC 20585; and Simon S. Martin, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, MS–1209, Idaho Falls, ID 83401.

Non-timely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application dated October 31, 1996, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555. The Commission's license and safety evaluation report, when issued, may be inspected at this location. If the Commission decides to establish a local public document room in a community near the proposed facility, an option currently under consideration, the license and safety evaluation report will also be available at this location.

Dated at Rockville, Maryland, this 6th day of January 1997.

For the U.S. Nuclear Regulatory Commission.

Charles J. Haughney,

Acting Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–719 Filed 1–10–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–255, 50–266, 50–301, 50–313, 50–368, 72–5, 72–7, 72–13, 72–1007]

All Users of VSC–24 Dry Storage Systems; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by a Petition filed pursuant to 10 CFR 2.206, on October 18, 1996, Eleanor Roemer, Esq., for Lake Michigan Federation, and Dr. Mary P. Sinclair, for Don't Waste Michigan, requested that the U.S. Nuclear Regulatory Commission order all users of Ventilated Storage Casks (VSC–24s) to refrain from loading any casks until the certificate of compliance (COC), safety analysis report (SAR), and safety evaluation report (SER) are amended to include operating controls and limits to prevent hazardous conditions. Such conditions include the generation of explosive gases, caused by the interaction between the VSC materials and the environments, encountered during loading, storage, and unloading.

Further, Petitioners claim the VSC–24s should not be used until: (i) An independent third-party review team has examined the safety issues they raise; (ii) the potential impacts of all material aspects of the casks have been fully assessed; (iii) there is experimental verification of temperature calculations and heat transfer assessments and other design assumptions; (iv) the safety of the material coatings on components and structures has been justified; and (v) the SAR, SER, and COC are amended to include the necessary operating control and limits to direct safe use of the VSC–24.

The Petition has been referred to the Office of Nuclear Material Safety and Safeguards. As provided by 10 CFR 2.206, appropriate action will be taken within a reasonable time. A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 10th day of December 1996.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–717 Filed 1–10–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22441; 812–10300]

The OFFITBANK Investment Fund, Inc., et al.; Notice of Application

January 6, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: The OFFITBANK Investment Fund, Inc. (''OFFITBANK Fund''), on behalf of OFFITBANK Total Return Fund (''TRF''), and on behalf of OFFITBANK High Yield Fund, OFFITBANK Emerging Markets Fund, OFFITBANK Latin America Total Return Fund, OFFITBANK Investment Grade Global Debt Fund, OFFITBANK Global Convertible Fund, OFFITBANK California Municipal Fund, OFFITBANK New York Municipal Fund, and OFFITBANK National Municipal Fund, and any future series; The OFFITBANK Variable Insurance Fund, Inc. (''OFFITBANK VIF''), on behalf of OFFITBANK VIF–Total Return Fund (''VTRF'' and, together with TRF, the ''Parent Funds'') and OFFITBANK VIF–High Yield Fund, OFFITBANK VIF–Emerging Markets Fund, OFFITBANK VIF–U.S. Government Securities Fund, OFFITBANK VIF–Investment Grade Global Debt Fund, OFFITBANK VIF–High Grade Fixed-Income Fund, and OFFITBANK VIF–Global Convertible Fund, and any future series; each open-end management investment company or series thereof to be organized in the future and which is advised by OFFITBANK (each such company or series, other than TRF and VTRF, an ''Underlying Fund,'' and collectively, the ''Underlying Funds''); and OFFITBANK (''OFFITBANK'').

RELEVANT ACT SECTIONS: Order requested under section 12(d)(1)(J) of the Act exempting applicants from section 12(d)(1) of the Act, and under sections 6(c) and 17(b) of the Act exempting applicants from section 17(a) of the Act.

SUMMARY OF APPLICATION: The requested order would permit each Parent Fund to invest all or a portion of its assets in the Underlying Funds in excess of the percentage limitations of section 12(d)(1).

FILING DATES: The application was filed on August 16, 1996, and amended on December 17, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 31, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: OFFITBANK Fund and OFFITBANK VIF, 125 W. 55th Street,

New York, N.Y. 10019; OFFITBANK, 520 Madison Avenue, New York, N.Y. 10022.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 942–0581, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. OFFITBANK Fund and OFFITBANK VIF are each Maryland corporations that are registered under the Act as open-end management investment companies. OFFITBANK Fund intends to establish TRF as a new series. VTRF is an existing series of OFFITBANK–VIF which has not yet commenced investment operations. OFFITBANK Fund is available to institutional and retail investors, while OFFITBANK–VIF is designed to serve as a funding vehicle for variable annuity contracts and variable life insurance policies offered by certain participating insurance companies.

2. OFFITBANK is a New York State chartered trust company that currently provides investment advisory services to the Underlying Funds, and will serve as investment adviser to the Parent Funds.[1] OFFITBANK's principal business is rendering discretionary investment management services to high net worth individuals and family groups, foundations, endowments, and corporations.

3. The Parent Funds are designed to provide investors with one or more diversified investment programs to meet particular investment goals and risk tolerances. The Parent Funds are intended for persons who are able to identify their long-term goals and risk tolerances, but prefer to allow OFFITBANK to decide which specific funds to choose at any particular time to seek to achieve these goals.

4. Each Parent Fund proposes to invest all or a portion of its assets in shares of the Underlying Funds, and, therefore, to operate as a fund of funds. Any assets that are not invested in the Underlying Funds will be invested directly in stocks, bonds, and other instruments, including money market instruments.[2] Allocations of a Parent Fund's assets among Underlying Funds will be made consistent with its investment objective as described in the applicable prospectus. The Underlying Funds in which a Parent Fund may invest also will be described in the Parent Fund's prospectus. To the extent the identity of the Underlying Funds in which a Parent Fund may invest changes over time (such as through the inclusion of new Underlying Funds), shareholders and investors will receive disclosure of such changes.

5. OFFITBANK anticipates charging an advisory fee to each Parent Fund with respect to that portion of the Parent Fund's assets invested directly in stocks, bonds, and other instruments. With respect to the portion of a Parent Fund's assets invested in the Underlying Funds, OFFITBANK will not charge any advisory fee to the Parent Fund unless such fee is found to be based upon services under an investment advisory contract that are additional to, rather than duplicative of, services provided pursuant to any Underlying Fund's advisory contract. Shareholder servicing costs, which include transfer agency functions, and mailing and printing of prospectuses, shareholder reports and proxies to existing shareholders, also will be borne by investors at the Parent Fund level.

6. The Underlying Funds currently are sold without front-end or contingent deferred sales charges. Certain of the Underlying Funds are subject to rule 12b–1 fees and shareholder servicing fees. While it is currently anticipated that the Parent Funds will be sold without any front-end or contingent deferred sales charges, and will not be subject to any rule 12b–1 or shareholder servicing fees, applicants serve the right to impose sales charges and service fees in the future with respect to any entities subject to the requested order, as permitted in condition 4 below, and any other provisions or limitations of applicable law.

Applicant's Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act would prevent, in substance, each Parent Fund from purchasing or acquiring shares of any Underlying Fund if immediately after such purchase or acquisition it would own in the aggregate: (a) more than 3% of the total outstanding voting stock of the acquired company; (b) securities issued by the acquired company having an aggregate value in excess of 5% of the value of the total assets of the acquiring company; or (c) securities issued by the acquired company and all other investment companies having an aggregate value in excess of 10% of the value of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act would prevent, in substance, each Underlying Fund from selling its shares to its respective Parent Fund if, immediately after such sale, more than 3% of the total outstanding voting stock of the Underlying Fund is owned by the Parent Fund, or more than 10% of the total outstanding voting stock of the Underlying Fund is owned by the Parent Fund and other investment companies.

2. In October 1996, the National Securities Markets Improvement Act of 1996 (the ''1996 Act'') was adopted.[3] Among other things, the 1996 Act amended the Act by adding section 12(d)(1)(G), which exempts from the limitations of section 12(d)(1) certain ''fund of funds'' structures that comply with the conditions prescribed in section 12(d)(1)(G). Applicants state that, but for the fact that applicants propose that the Parent Funds have the flexibility to invest directly in stocks, bonds, and other instruments, in addition to investing in the Underlying Funds, applicants would be able to rely on the exemption now provided in the Act.[4]

3. The 1996 Act also added section 12(d)(1)(J), which provides, in relevant part, that the SEC may by order conditionally or unconditionally exempt any person, security, or transaction from the limitations of section 12(d)(1) if, and to the extent that, such exemption is consistent with the public interest and the protection of investors. Applicants request an order under section 12(d)(1)(J) exempting them from section 12(d)(1) to permit each Parent Fund to invest in any Underlying Fund in excess of the percentage limitations of that section.

4. Applicants state that section 12(d)(1) is intended to prevent unregulated pyramiding of investment companies, and the abuses which are perceived to arise from such pyramiding. Applicants note that, prior to the enactment of section 12(d)(1), there was concern that unregulated pyramiding of investment companies would provide, for those in control at the top of the pyramid, an element of power and domination over funds

[1] Applicants state that OFFITBANK is a ''bank,'' as defined in section 202(a)(2) of the Investment Advisers Act of 1940, and therefore is not required to be, and is not, registered as an investment adviser.

[2] Each Parent Fund that will make investments in reliance on the proposed order will invest in other investment companies only to the extent contemplated by the requested relief.

[3] Pub. L. No. 104–290 (1996).

[4] Section 12(d)(1)(G) limits direct investing outside of affiliated funds to certain government securities and short-term instruments.

further down in the pyramid. For example, applicants note that a Parent Fund might be able to influence, without proper authority, the activities of the persons operating an Underlying Fund or the activities of the Fund itself. Applicants state that, arguably, this control could arise via a threat of large-scale redemptions or the fact that an acquired fund, faced with substantial investment in its shares by an acquiring fund, might feel constrained to manage its assets in a manner different from the fund's normal practice in order to be able to satisfy unexpected, disruptive, large redemption requests.

5. Applicants believe that none of the dangers that were of concern to Congress in drafting section 12(d)(1) are present in the proposed Parent Fund arrangement. Unlike the fund of funds operations that prompted enactment of section 12(d)(1), the Parent Funds and the Underlying Funds will all be part of the same group of investment companies. Further, applicants state that OFFITBANK, which will be the adviser to the Underlying Funds as well as to the Parent Funds, is governed by its obligations to the Parent Funds and the Underlying Funds and their shareholders and any allocation or reallocation by OFFITBANK of a Parent Fund's assets among Underlying Funds would be required to be made in accordance with those obligations. Applicants also believe that OFFIBANK's own self-interest will prompt it to maximize benefits to all shareholders, and not disrupt the operations of any of the Parent Funds or the Underlying Funds. Finally, applicants reiterate that, but for the fact that the Parent Funds may invest directly in stocks, bonds, and other instruments, applicants' proposal is consistent with fund of funds structures now explicitly permitted under section 12(d)(1)(G) of the Act.

6. As noted above, OFFITBANK anticipates charging an advisory fee to the Parent Fund to the extent that the Fund's assets are invested directly in stocks, bonds, or other instruments, rather than shares of the Underlying Funds. With respect to the portion of a Parent Fund's assets invested in the Underlying Funds, applicants represent that, before approving any advisory contract under section 15 of the Act, the directors of each Parent Fund, including a majority of the directors of each Parent Fund who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors''), shall find that the advisory fees, if any, charged under such contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Fund's advisory contract.

7. While investment in the Parent Funds will involve additional expenses due to the costs of establishing and maintaining the Parent Funds as separate series, applicants believe that those additional expenses will not be substantial and that such expenses will be offset by the benefits which are presumed to be generated for the Underlying Funds and inure indirectly to the Parent Funds. Applicants believe that: (a) the addition of assets from each Parent Fund to the Underlying Fund may reduce the expense ratio for each Underlying Fund; (b) to the extent that shareholders of the Parent Funds otherwise would directly open accounts with each of the Underlying Funds, the number of accounts and related expenses at the Underlying Fund level may be reduced; and (c) by investing in the Underlying Funds, the Parent Funds may more efficiently achieve a level of diversification through various asset classes than if investments were made directly in portfolio securities, and without incurrence of transaction costs associated with direct investing. Moreover, applicants will provide to the Chief Financial Analyst of the SEC's Division of Investment Management annual expense ratios for each Parent Fund and each Underlying Fund, as specified in condition 5 below. Applicants believe that this will enable the SEC to monitor the expenses relating to each Parent Fund. Based on the foregoing, applicants believe that the proposed transactions satisfy the requirements of section 12(d)(1)(J).

B. Section 17(a)

1. Section 17(a) makes it unlawful for an affiliated person of a registered investment company, or an affiliated person of such person, to sell securities to, or purchase securities from, the company. Under the proposed structure, the Parent Funds and the Underlying Funds may be deemed to be affiliates of one another. Purchases by the Parent Funds of the shares of the Underlying Funds and the sale by the Underlying Funds of their shares to the Parent funds could thus be deemed to be principal transactions between affiliated persons under section 17(a).

2. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act.

3. Section 6(c) of the Act provides that the SEC may exempt persons or transactions if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the terms of the proposed transactions are fair and reasonable and do not involve overreaching. The consideration paid for the sale and redemption of shares of the Underlying Funds will be based on the net asset value of the Underlying Funds, subject to applicable sales charges. In addition, applicants assert that the proposed transactions will be consistent with the policies of each Parent Fund. The investment of assets of the Parent Funds in shares of the Underlying Funds and the issuance of shares of the Underlying Funds to the Parent Funds will be effected in accordance with the investment restrictions of each Parent Fund and will be consistent with the policies of (as set forth in the registration statement applicable to) each Parent Fund. Applicants also state that, for the reasons discussed above, the proposed transactions are consistent with the general purposes of the Act. Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b).[5]

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Each Parent Fund and each Underlying Fund will be part of the same ''group of investment companies,'' as defined in rule 11a–3 under the Act.

2. No Underlying Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. Before approving any advisory contract under section 15 of the Act, the directors of each Parent Fund, including a majority of the Independent Directors, shall find that the advisory fees, if any, charged under such contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Fund's advisory contract. Such finding,

[5] Section 17(b) applies to specific proposed transactions, rather than an ongoing series of future transactions. *See* Keystone Custodian Funds, 21 S.E.C. 295, 298–99 (1945). Section 6(c) frequently is used to grant relief from section 17(a) to permit an ongoing series of future transactions.

and the basis upon which the finding was made, will be recorded fully in the minute books of the Parent Fund.

4. Any sales charges or service fees charged with respect to shares of each Parent Fund, when aggregated with any sales charges or service fees paid by the Parent Fund with respect to shares of any Underlying Fund, shall not exceed the limits set forth in Rule 2830 of the Rules of Conduct of the National Association of Securities Dealers, Inc.

5. Applicants will provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: monthly average total assets for each Parent Fund and each of its Underlying Funds; monthly purchases and redemptions (other than by exchange) for each Parent Fund and each of its Underlying Funds; monthly exchanges into and out of each Parent Fund and each of its Underlying Funds; month-end allocations of each Parent Fund's assets among its Underlying Funds; annual expense ratios for each Parent Fund and each of its Underlying Funds; and a description of any vote taken by the shareholders of any Underlying Fund, including a statement of the percentage of votes cast for and against the proposal by its Parent Fund and by the other shareholders of the Underlying Funds. Such information will be provided as soon as reasonably practicable following each fiscal year-end of the Parent Funds (unless the Chief Financial Analyst shall notify the Parent Funds or OFFITBANK in writing that such information need no longer be submitted).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–686 Filed 1–10–97; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22442; 811–1341]

Special Portfolios, Inc.; Notice of Application

January 6, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Special Portfolios, Inc.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on October 31, 1996 and amended on December 26, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 10, 1997, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 500 Bielenberg Drive, Woodbury, Minnesota 55125.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Staff Attorney, at (202) 942–0572, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered open-end management investment company and is organized as a corporation under the laws of Minnesota. Applicant registered under the Act and filed a registration statement on Form S–5 on March 16, 1996. At that time, applicant's name was ''Josten Growth Fund, Inc.'' On July 19, 1966, the registration statement was declared effective and applicant commenced its initial public offering.

2. Due to the relatively small size and uneconomical nature of applicant, applicant's board of directors concurred with the recommendation of applicant's investment adviser that shareholders be invited to redeem their shares so that applicant could be liquidated. Accordingly, a letter was sent to applicant's shareholders. In response, during the period from March 1, 1996 through April 8, 1996, all remaining shareholders, including the Fortis, Inc. Profit Sharing Plan, chose to redeem their shares of applicant.[1] All redemptions were made at net asset value as of the date of redemption.

3. No expenses were incurred in connection with the redemption of shares, other than normal shareholder servicing expenses. Applicant's investment adviser has undertaken to pay the expenses of winding up applicant. In connection with the redemption of shares, applicant sold its remaining portfolio securities in normal market transactions. No sales or brokerage commissions were paid in connection with such sales.

4. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has retained no assets. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

5. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

6. After the requested order is granted, applicant intends to file a notice of dissolution with the State of Minnesota, followed by articles of dissolution. Applicant anticipates that the filing of the notice of dissolution will be authorized by applicant's board of directors in accordance with Minnesota corporation law.

For the SEC by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–687 Filed 1–10–97; 8:45 am]

BILLING CODE 8010–01–M

[1] The profit sharing plan owned approximately 97% of applicant's shares subsequent to March 1, 1996.

[Release No. 34–38123; File No. SR–Amex–96–45]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange, Inc. Relating to the Closing Time for Equity Options and Narrow-Based Index Options

January 6, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on November 22, 1996, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

have been prepared by the self-regulatory organization. On December 16, 1996, the Exchange filed Amendment No. 1 to its proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rules 1, 903C, 918 and 980C to provide for the closing of equity option and narrow-based index option trading at 4:02 p.m.

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory basis for, the Proposed Rule Change

1. Purpose

Since 1978, equity options have traded until 4:10 p.m., ten minutes beyond the close of trading of the underlying securities, to allow investors to trade options based upon the final closing prices of those underlying securities. In 1978, frequent delays between the time of the execution of the closing transaction and the appearance of the trade on the Consolidated Tape Association's Tape A gave rise to time lags that, in some instances, were as long as seven minutes after the close of trading at 4:00 p.m. Today, due to improvements in trading and reporting systems, the dissemination of closing prices is delayed at most one or two minutes, and only in unusual market conditions are any significant time lags encountered. Another reason for extending equity option trading until 4:10 p.m., cited in 1978, was to give options participants additional time to digest the impact of news announcements by companies and government agencies who oftentimes released such news at 4:00 p.m. or shortly thereafter.

While the Exchange expressed reservations regarding the move to 4:10 p.m., it ultimately acceded to the industry's consensus that such a close was appropriate. Although the Exchange has made efforts to encourage companies and others to withhold significant news announcements until after the close of option trading, occasionally such announcements are released between 4:00 and 4:10 p.m., and dramatically impact the trading of equity and narrow-based index options[4] during that time period. The Exchange has not requested a change in the trading close for broad-based index options as it does not believe that a significant news announcement by the issuer of one component stock in a broad-based index would have a corresponding effect on the price of that broad-based index.[5]

When instances of significant news releases occur prior to the close of option trading, the Exchange has observed that public customers are unable to react as quickly as professional traders, and accordingly lack the ability to give their brokers instructions or take action with regard to orders that may have been previously placed on the limit order book. Further, because the principal market for the underlying stock is closed, option specialists and market makers have oftentimes experienced extreme difficulty making orderly options markets given their inability to hedge or otherwise offset market risk with transactions in the underlying stock.

Therefore, the Exchange now proposes that at 4:02 p.m., all trading in equity options and narrow-based index options will cease. No orders may be entered, modified or canceled in any equity or narrow-based index option series after 4:02 p.m.

The Exchange believes a 4:02 p.m. closing time for equity options and narrow-based index options is necessary and appropriate given the improvements in dissemination of closing prices, and the limited ability of public customers to react to news announcements and changing markets in the last ten minutes of trading under the current rule. However, the Exchange also believes that the additional two minutes of options trading after the close of trading in the underlying stock will allow market participants to react, if necessary, to any delayed dissemination of closing prices.

2. Statutory Basis

The proposed rule change furthers the objectives of Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and is designed to prevent unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[3] The proposed rule change submitted by the Exchange would change the trading close for equity options to 4:02 p.m. Amendment No. 1 would also change to 4:02 p.m. the trading close for narrow-based index options. *See* Letter from Claire P. McGrath, Amex, to Janice Mitnick, Division of Market Regulation, SEC, dated December 16, 1996 (''Amendment No. 1'').

[4] A significant new announcement on one component of a narrow-based index could have a decisive effect on that index. *See* Amendment No. 1.

[5] *Id.*

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-96–45 and should be submitted by February 3, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegate authority.[6]

[FR Doc. 97–688 Filed 1–10–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38119; File No. SR–CHX–96–16]

Self-Regulatory Organizations; the Chicago Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Trading of Nasdaq/NM Securities on the CHX

January 3, 1997.

I. Introduction

On June 14, 1996, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Article XX, Rule 37 and Article XX, Rule 43 relating to the trading of Nasdaq National Market (''Nasdaq/NM'') securities (previously known as NASDAQ/NMS securities) on the Exchange.[3]

The proposed rule change was published for comment in the Federal Register on July 2, 1996.[4] No comments were received on the proposal.

II. Background

On May 4, 1987, the Commission approved certain Exchange rules and procedures relating to the trading of Nasdaq/NM securities on the Exchange.[5] Among other things, these rules made the Exchange's BEST Rule guarantee (Article XX, Rule 37(a)) applicable to Nasdaq/NM securities and made Nasdaq/NM securities eligible for the automatic execution feature of the Exchange's Midwest Automated Execution System (''MAX system'').[6]

1. BEST Rule[7]

Currently, under the BEST Rule, Exchange specialists are required to guarantee executions of all agency[8] market and limit orders for Dual Trading System issues[9] and all agency market orders for Nasdaq/NM securities, from 100 up to and including 2099 shares. Subject to the requirements of the short sale rule,[10] the specialist must fill all agency market orders at a price equal to or greater than the national best bid or best offer (''NBBO''). For all agency limit orders in Dual Trading System issues, the specialist must fill the order if: (1) the NBBO at the limit price has been exhausted in the primary market; (2) there has been a price penetration of the limit in the primary market (generally known as a trade-through of a CHX limit order); or (3) the issue is trading at the limit price on the primary market unless it can be demonstrated that the order would not have been executed if it had been transmitted to the primary market or the broker and specialist agree to a specific volume related to, or other criteria for, requiring a fill.

2. MAX System

The Exchange's MAX system provides for the automatic execution of orders that are eligible for execution under the Exchange's BEST Rule (*i.e.*, agency market orders in securities listed on the NYSE or AMEX and Nasdaq/NM securities, as discussed above), and certain other orders.[11]

The MAX system has two size parameters which must be designated by the specialist on a stock-by-stock basis. Currently, the specialist must set the auto-execution threshold at 1099 shares or greater and the auto-acceptance threshold at 2099 shares or greater. In no event may the auto-acceptance threshold be less than the auto-execution threshold. If the order-entry firm sends an order through the MAX system that is greater than the specialist's auto-acceptance threshold, a specialist may cancel the order within three minutes of it being entered into MAX. If not canceled by the specialist, the order is designated as an open order.[12] If the order-entry firm sends an order through MAX that is less than the auto-acceptance threshold but greater than the auto-execution threshold, the order is not available for automatic execution but is designated in the open order book. A specialist may manually execute any portion of the order; the difference must remain as an open order. If the order-entry firm sends an order through MAX that is less than or equal to the auto-execution threshold, the order is executed automatically.

The MAX system currently provides for a fifteen second delay between the time an agency market order is entered into the MAX system and the time it is automatically executed at the NBBO in

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[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On Dec. 19, 1996, the CHX filed Amendment No. 1 to its proposal. Letter from J. Craig Long, Attorney, Foley & Lardner, to Howard L. Kramer, Associate Director, Division of Market Regulation, SEC, dated Dec. 19, 1996. In Amendment No. 1, the CHX requested that the Commission approve the proposal on a pilot basis for a one year period.

[4] *See* Securities Exchange Act Release No. 37369 (June 25, 1996), 61 FR 34462 (July 2, 1996) (notice of File No. SR–CHX–96–16) (''Notice'').

[5] Securities Exchange Act Release No. 24424 (May 4, 1987), 52 FR 17868 (May 12, 1987) (order approving File No. SR–MSE–87–2). *See* Securities Exchange Act Release Nos. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990) (order expanding the number of eligible securities to 100); 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995) (order expanding the number of eligible securities to 500).

[6] The MAX system may be used to provide an automated delivery and execution facility for orders that are eligible for execution under the Exchange's BEST Rule and certain other orders. *See* CHX, Art. XX, Rule 37(b).

[7] *See* CHX Manual, Art. XX, Rule 37(a).

[8] The term ''agency order'' means an order for the account of a customer, but shall not include professional orders as defined in CHX, Article XXX, Rule 2, interpretation and policy .04. The Rule defines a ''professional order'' as any order for the account of a broker-dealer, the account of an associated person of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest. *Id.*

[9] According to the Exchange, Dual Trading System Issues are issues that are traded on the CHX, pursuant to unlisted trading privileges, and listed on either the New York Stock Exchange or American Stock Exchange. Telephone conversation on June 5, 1996 between David T. Rusoff, Attorney, Foley & Lardner, and George A. Villasana, Attorney, Division of Market Regulation, SEC.

[10] While the Commission and the NASD have rules that prohibit short sales, under certain conditions, or securities registered on, or admitted to unlisted trading privileges on, a national securities exchange and short sales of securities traded on Nasdaq, there is no rule governing short sales in Nasdaq/NM securities traded on the CHX. *See* 17 CFR § 240.10a–1 and NASD Rule 3350.

[11] A MAX order that fits under the BEST parameters must be executed pursuant to BEST Rules via the MAX system. If the order is outside the BEST parameters, the BEST Rules do not apply, but MAX system handling rules do apply.

[12] If an oversized market or limit order is received by the specialist, he will either reject the order immediately or display it. If the order is displayed, the specialist will check with the order entry broker to determine the validity of the oversized order. During the three minute period, the specialist can cancel the order and return it to the order entry firm, but until it is cancelled the displayed order is eligible for execution. Although these procedures currently exist under CHX rules, the Commission has concerns as to whether the three minute period is necessary and urges the CHX to reduce the time period or otherwise address the necessity of the specialists' discretion during the three minute period. Moreover, the handling of orders by CHX specialists must still comply with the Commission's recently adopted Order Execution Rules (Securities Exchange Act Release No. 37619A (Sept. 6, 1996), 61 FR 48290 (Sept. 12, 1996)) and any subsequently issued interpretations of the Order Execution Rules.

order to provide the specialist with an opportunity to provide price improvement to the order. If, however, the spread between the NBBO in a stock eligible for automatic execution in the MAX system is ⅛ point at the time an order is entered into the MAX system, that order is executed immediately without the fifteen second delay. Non-marketable agency limit orders, subject to the BEST Rule, are automatically filled at the limit price when there is a price penetration of the limit price in the primary market.[13]

III. Description of Proposal

The Exchange proposes to end its requirement that CHX specialists automatically execute orders in Nasdaq/NM securities when the specialist is not quoting at the NBBO.

Under the proposed revisions to the BEST Rule, specialists must continue to accept agency market orders or marketable limit orders, but only for orders of 100 to 1000 shares in Nasdaq/NM securities rather than the 2099 shares limit previously in place.[14] Specialists must accept all agency limit orders in Nasdaq/NM securities from 100 up to and including 10,000 shares for placement in the limit order book. As described below, however, specialists would be required to automatically execute Nasdaq/NM orders only when they were quoting to the NBBO when the order was received.

The proposal requires the specialist to set the auto-executive threshold at 1000 shares or greater for Nasdaq/NM securities. Orders for a number of shares less than or equal to the auto-execution threshold set by the specialist will be automatically executed if the CHX specialist is quoting at the NBBO for the lesser of the size of the order or the specialist's quote. The orders are executed automatically after a fifteen second delay from the time the order is entered into MAX. The size of the specialist's bid or offer will automatically be decremented by the size of the execution. When the specialist's quote is exhausted, the system will generate an autoquote at ⅛ point away from the NBBO for 1000 shares.

When the specialist is not quoting a Nasdaq/NM security at the NBBO, it can elect, on an order-by-order basis, to manually execute orders in that security. If the specialist does not elect manual execution, MAX market and marketable limit orders in that security that are of a size equal to or less than the auto-execution threshold will automatically be executed at the NBBO after a twenty second delay.[15]

Under the proposal, if the specialist elects manual execution, the specialist must either manually execute the order at the NBBO or a better price or act as agent for the order in seeking to obtain the best available price for the order on a marketplace other than the Exchange.[16] If the specialist decides to act as agent for the order, the proposed rule requires the specialist to use order-routing systems to obtain an execution where appropriate. Market and marketable limit orders that are for a number of shares greater than the auto-execution threshold are not subject to these requirements, and may be canceled within three minutes of being entered into MAX or designated as an open order.

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[17] In particular, the Commission believes the proposal is consistent with the requirements of Section 6(b)(5) that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 11A(1)(D) and 11A(1)(C) of the Act.

The CHX's proposal to not require automatic execution for Nasdaq/NM securities when the specialist is not quoting at the NBBO, and to allow the specialist to execute the order as agent, is intended to conform CHX specialist obligations to those applicable to OTC market makers in Nasdaq/NM securities, while recognizing that the CHX provides a separate, competitive market for Nasdaq/NM securities. The rules establish execution procedures and guarantees that attempt to provide an execution reflective of the best quotes among OTC market makers and specialists in Nasdaq/NM securities without subjecting CHX specialists to execution guarantees that are substantially greater than those imposed on their competitors.

The Commission does not believe that the Act necessarily requires the CHX to provide automatic execution of orders. Nonetheless, if the CHX chooses to make available an order-routing system to its members, to be consistent with the Act, this system must not be designed in a manner that will result in customer orders receiving executions at prices worse than those reasonably available in the market, which generally would be the NBBO. Otherwise, members could violate their best execution duty to their customers if they used the system. The CHX's proposed modification of its MAX system seeks to ensure that customer orders receive the best prices by requiring specialists, if they do not execute orders automatically at the NBBO or better, at a minimum to represent the orders as agent off the Exchange.

Under these circumstances, CHX Rule 43 requires a specialist to use order-routing systems where appropriate. At present, however, CHX specialists have available only limited order-routing systems. A CHX specialist currently can route orders to Nasdaq market makers only via the telephone or, if the CHX specialist is an NASD member, through Selectnet and SOES.[18] Clearly, a more efficient linkage between the CHX and Nasdaq would better enable CHX specialists to access OTC market makers quickly on a consistent basis.

While operation of the proposed system is not necessarily inconsistent with the duty of CHX specialists to provide best execution of customer orders, the Commission believes that the arrangement in place for specialists to access OTC market makers is not an ideal linkage between two markets on a permanent basis. Consequently, the CHX has represented that it intends to

[13] If, however, the difference between the trade-through price and the last sale price is greater than ¼ point or 1% of the value of the trade-through price, whichever is less, a second print at a trade-through price, which is less than ¼ point or 1% away from the previous trade-through price is necessary before that MAX system will automatically execute the agency limit order.

[14] The 100 to 2099 share auto-acceptance threshold previously in place will only continue to apply to Dually Listed securities.

[15] The CHX has clarified that the twenty second delay is designed, in part, to provide an opportunity for the order to receive price improvement from the specialist's displayed quote. *Id.*

[16] Letter dated Aug. 1, 1996 from David Rusoff, Attorney, Foley & Lardner, to George A. Villasana, Attorney, Securities & Exchange Commission.

[17] 15 U.S.C. 78f(b).

[18] The CHX has represented that a CHX specialist in Nasdaq/NM securities, if not an NASD member, currently may use a CHX member that is also an NASD member to route orders via SelectNet and SOES to Nasdaq/NM market makers. The CHX has explained further that this access currently is provided by the NASD member to an existing CHX specialist in Nasdaq/NM securities, but the arrangement may not necessarily apply to any future CHX specialists in Nasdaq/NM securities. Thus, the CHX has indicated that it will not allocate any Nasdaq/NM securities to any additional CHX specialists until an order-routing linkage is completed between the CHX and the Nasdaq. Telephone conversation on October 29, 1996 between Craig Long, Esq., Foley & Lardner, and Betsy Prout Lefler, Esq., Division of Market Regulation, SEC.

work towards quickly establishing a linkage between the CHX systems and Nasdaq systems in order to permit market makers in each market to route orders to the other market center.[19] Consequently, the Commission is approving the CHX proposal for only one year, during which time the Commission expects the CHX and Nasdaq to effectuate a linkage. The Commission also expects the CHX to monitor closely the executions provided to CHX market and marketable limit orders for Nasdaq/NM securities that are not automatically executed at the NBBO (or better) at the time the order is received. The Commission further requests that the Exchange submit to the Commission a report, based on six months of trading data, on or before 240 days following the issuance of this order, that describes the executions provided these orders.

The Commission is approving the CHX proposal on a pilot basis for a one-year period beginning in January 1997 and extending through December 1997. The Commission's approval is based, in part, on CHX's expressed commitment to work in good faith with the Nasdaq, during the one-year pilot period, to set up an order routing system between the Nasdaq and the CHX.[20]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–CHX–96–16) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–690 Filed 1–10–97; 8:45 am]

BILLING CODE 8010–01–M

[Release no. 34-38120; File No. SR–Philadep–96–22]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change to Establish Family of Account Processing Procedures

January 3, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 17, 1996, the Philadelphia Depository Trust Company (''Philadep'') filed with the Securities and Exchange Commission (''Commission'') that proposed rule change (File No. SR–Philadep–96–22) as described in Items I and II below, which items have been prepared primarily by Philadep. On December 31, 1996, Philadep filed an amendment to the proposed rule change to make certain technical corrections.[2] The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to establish an automated family of accounts risk review for omnibus settlement accounts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

It its filing with the Commission, Philadep included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the propose rule change. The text of these statements may be examined at the places specified in Item IV below. Philadep has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish an automated family of accounts risk review for settlement activity in omnibus accounts. Philadep currently monitors individual subaccount activity underlying omnibus settling accounts and applies its risk management controls (*i.e.*, collateral monitor and net debit caps) to such subaccounts in a manual fashion.[4] Philadep proposes to automate its risk management procedures in this area by incorporating an automated family of accounts risk monitoring system. In accordance with this proposal, Philadep will apply this family of accounts system to its only omnibus account (Canadian Depository for Securities) and to any future omnibus accounts.

The family of accounts risk monitoring system will group together the activity of subaccounts which underlie a participant's omnibus settlement account. The delivery and receive activity of individual subaccounts will be reviewed in connection with the omnibus account's aggregate net debit cap and collateral monitor. For each receive or delivery transaction, the system will update the omnibus account's settlement balance and will automatically calculate the net debit impact and the collateral monitor impact that the receive and/or delivery have on a group basis. In this regard, it a subaccount's receive or delivery, adjusted for the appropriate haircut and added or subtracted to or from the omnibus account's collateral monitor, results in the omnibus account's collateral monitor being less than the omnibus account's accumulated net debit amount, the receive or delivery will pend. As the settlement balance changes as a result of other activity, the system will continuously determine whether pending items may be processed. Receives and deliveries that are still pending by the settlement cutoff time will be dropped from the system.

Philadep believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because the proposal will promote the prompt and accurate clearance and settlement of securities transactions and will assure the safeguarding securities and funds which are in the custody or control of Philadep or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Philadep does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. Philadep will notify the Commission of any written comments received by Philadep.

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[19] *See* Amendment No. 1, *supra* note 3.

[20] *Id.*

[21] 15 U.S.C. 78s(b)(2)

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Letter from J. Keith Kessel, Compliance Officer, Philadep (December 31, 1996).

[3] The Commission has modified the text of the summaries submitted by Philadep.

[4] For a description of Philadep's risk management controls for its same-day funds settlement (''SDFS'') system, refer to Securities Exchange Act Release no. 36876 (February 22, 1996), 61 FR 7841 [SR-Philadep-95-08] (order granting partial temporary approval and partial permanent approval of a proposed rule change to convert the settlement system to a same-day funds settlement systems).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b) (3) (F) of the Act[5] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that Philadep's proposal relating to its family of accounts risk monitoring procedures are consistent with Philadep's obligations under Section 17A(b) (3) (F) because the proposed rule change will establish an automated risk review system to ensure that risk management controls are properly applied to transactions in omnibus accounts. Additionally, the Commission believes the proposal is consistent with Philadep's obligations under Section 17A(b) (3) (F) to promote the prompt and accurate clearance and settlement of securities transactions because the proposed rule change will automate a risk review procedure which is currently performed manually, therefore, improving the efficiency of Philadep's SDFS system.

Philadep has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because the proposed rule change will allow Philadep to immediately implement the family of account risk monitoring procedures. The Commission believes that the automation of Philadep's manual risk review procedures for omnibus accounts will reduce the risk of human error and will increase the efficiency of Philadep's SDFS system with respect to omnibus accounts.[6]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of Philadep. All submissions should refer to the file number SR–Philadep–96–22 and should be submitted by February 3, 1997.

It is therefore ordered, pursuant to Section 19(b) (2) of the Act, that the proposed rule change (File No. SR–Philadep–96–22) be, and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–689 Filed 1–10–97; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78q-1(b) (3) (F).

[6] The staff of the Board of Governors of the Federal Reserve System has concurred with the Commission's granting of accelerated approval. Telephone conversation between John Rudolph, Board of Governors of the Federal Reserve System, and Chris Concannon, Staff Attorney, Division of Market Regulation, Commission (January 3, 1997).

[7] 17 CFR 200.30–3(a) (12).

SOCIAL SECURITY ADMINISTRATION

[Social Security Acquiescence Ruling 97-2(9)]

Gamble v. Chater; Amputation of a Lower Extremity—When the Inability to Afford the Cost of a Prosthesis Meets the Requirements of Section 1.10C of the Listing of Impairments—Titles II and XVI of the Social Security Act

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 97-2(9).

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1695.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Ninth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after January 13, 1997. If we made a determination or decision on your application for benefits between October 12, 1995, the date of the Court of Appeals decision, and January 13, 1997, the effective date of this Social Security Acquiescence Ruling, you may request application of the Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b) or 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the Federal Register to that effect as provided for in 20 CFR 404.985(e) and 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c) and 416.1485(c), we will publish a notice in the Federal Register stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security - Disability Insurance; 96.002 Social Security - Retirement Insurance; 96.004 Social Security - Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income.)

Dated: October 15, 1996.

Shirley S. Chater,

Commissioner of Social Security.

Acquiescence Ruling 97-2(9)

Gamble v. *Chater*, 68 F.3d 319 (9th Cir. 1995)—Amputation of a Lower Extremity—When the Inability to Afford the Cost of a Prosthesis Meets the Requirements of Section 1.10C of the Listing of Impairments—Titles II and XVI of the Social Security Act.

Issue: Whether a claimant for disability insurance benefits or for Supplemental Security Income benefits based on disability who has an amputation of a lower extremity (at or

above the tarsal region) and cannot afford the cost of a prosthesis has an impairment that meets the requirements of Regulations 20 CFR Part 404, Subpart P, Appendix 1, section 1.10C.

Statute/Regulation/Ruling Citation: Sections 223(d)(1) and 1614(a)(3) of the Social Security Act (42 U.S.C. 423(d)(1) and 1382c(a)(3)); 20 CFR 404.1530, 416.930; 20 CFR Part 404, Subpart P, Appendix 1, section 1.10C; Social Security Ruling (SSR) 82-59.

Circuit: Ninth (Alaska, Arizona, California, Guam, Hawaii (including American Samoa), Idaho, Montana, Nevada, Northern Mariana Islands, Oregon, Washington).

Gamble v. *Chater*, 68 F.3d 319 (9th Cir. 1995).

Applicability of Ruling: This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, Administrative Law Judge (ALJ) hearing and Appeals Council).

Description of Case: The plaintiff, David Gamble, had his right leg amputated below the knee in July 1988. Although he was able to use a prosthesis, physicians expected that shrinkage of the stump over the next two years might require changes in the prosthesis. In late 1989, the skin on the stump began to break down. By October 1991, the prosthesis did not fit properly and could not be satisfactorily adjusted. Because Mr. Gamble did not have and could not obtain $3,477.80, the cost of a replacement prosthesis, his treating physician concluded that nothing more could be done and limited him to walking with a crutch.

Mr. Gamble applied for Supplemental Security Income benefits based on disability in April 1991 and Social Security disability insurance benefits in May 1991. Following denial of his claims at both the initial and reconsideration levels of the administrative review process, the plaintiff requested and received a hearing before an ALJ. In the hearing decision, the ALJ noted that Mr. Gamble could not afford a new prosthesis and found that his condition did not meet or equal Listing 1.10C in the Listing of Impairments contained in 20 CFR Part 404, Subpart P, Appendix 1. The district court upheld SSA's decision. Mr. Gamble appealed this decision to the United States Court of Appeals for the Ninth Circuit.

Holding: The Ninth Circuit reversed the decision of the district court. The Court of Appeals noted that the proper interpretation of Listing 1.10C was an issue of first impression in the Ninth Circuit. After reviewing the principle upheld by other Circuits that ''[d]isability benefits may not be denied because of the claimant's failure to obtain treatment he cannot obtain for lack of funds,'' the Court of Appeals held that the requirement in Listing 1.10C that a claimant be unable to use a prosthesis effectively ''means the inability to use a prosthesis that is reasonably available to the claimant.'' Accordingly, the court also held that ''a person whose leg was amputated at or above the tarsal region satisfies Listing § 1.10 if he is unable to use any prosthesis that is reasonably available to him.''

The court found that an amputee who is unable to reasonably obtain a prosthesis should not be treated differently from any other disabled person who cannot obtain the treatment, therapy or medical device needed to restore the ability to work. In addition, the court found that claimants who could obtain prostheses but who simply choose not to purchase them do not meet the requirements of Listing 1.10C and could be found ''not disabled'' under 20 CFR 404.1530 and 416.930 for failing to follow prescribed treatment without good reason. Accordingly, the court reversed and remanded the case with instructions for an award of benefits because Mr. Gamble could not realistically obtain the prosthesis he needed.

Statement As To How Gamble Differs From Social Security Policy

At issue in *Gamble* is the meaning of the term ''[i]nability to use a prosthesis effectively'' in Listing 1.10C. What constitutes an ''inability to use a prosthesis effectively'' is not defined in SSA's regulations. In Listing 1.10C, ''inability'' means a medical inability, i.e., a claimant cannot effectively use a prosthesis because of medical complications. The intent is to measure medical severity. The availability of prosthetic devices and a claimant's inability to afford a prosthesis are not considered for the purpose of determining disability under the Listing of Impairments.

The *Gamble* court held that a claimant ''whose leg was amputated at or above the tarsal region satisfies Listing § 1.10 if he is unable to use any prosthesis that is reasonably available to him.'' As a practical matter, the court concluded that a claimant who cannot afford a prosthesis, even if he could use one, does not have a prosthesis reasonably available to him and thus, is unable to use a prosthesis.

Explanation of How SSA Will Apply The Gamble Decision Within The Circuit

This Ruling applies only where the claimant resides in Alaska, Arizona, California, Guam, Hawaii (including American Samoa), Idaho, Montana, Nevada, Northern Mariana Islands, Oregon or Washington at the time of the determination or decision at any administrative level, i.e., initial, reconsideration, ALJ hearing or Appeals Council.

A claimant whose lower extremity is amputated at or above the tarsal region and is unable to use any prosthesis that is reasonably available to him will be considered to have satisfied the requirements of Listing 1.10C. When determining the reasonable availability of prosthetic devices, adjudicators must consider evidence of an inability to afford the cost of the prosthesis. Adjudicators must evaluate all such evidence and consider the claimant's economic circumstances in determining whether the claimant can or cannot afford the prosthesis.

[FR Doc. 97–668 Filed 1-10-97; 8:45 am]
BILLING CODE 4190-29-F

[Social Security Acquiescence Ruling 97-1(1)]

Parisi By Cooney v. Chater; Reduction of Benefits Under the Family Maximum In Cases Involving Dual Entitlement—Title II of the Social Security Act

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 97-1(1).

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1695.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek

further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the First Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after January 13, 1997. If we made a determination or decision on your application for benefits between November 8, 1995, the date of the Court of Appeals decision, and January 13, 1997, the effective date of this Social Security Acquiescence Ruling, you may request application of the Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the Federal Register to that effect as provided for in 20 CFR 404.985(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c), we will publish a notice in the Federal Register stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 96.001 Social Security - Disability Insurance; 96.002 Social Security - Retirement Insurance; 96.004 Social Security - Survivors Insurance.)

Dated: September 19, 1996.

Shirley S. Chater,

Commissioner of Social Security.

Acquiescence Ruling 97-1(1)

Parisi By Cooney v. *Chater*, 69 F.3d 614 (1st Cir. 1995)—Reduction of Benefits Under the Family Maximum In Cases Involving Dual Entitlement—Title II of the Social Security Act.

Issue: Whether, in determining the amount of benefit reduction under the maximum family benefits provision in section 203(a) of the Social Security Act (the Act) in cases where a beneficiary is entitled to benefits on more than one earnings record, only those monthly benefits payable on the worker's earnings record after application of the simultaneous benefit provisions are included in calculating the total monthly benefits payable on that record.

Statute/Regulation/Ruling Citation: Sections 202(k)(3)(A), 202(r) and 203(a) of the Social Security Act (42 U.S.C. 402(k)(3)(A), 402(r) and 403(a)); 20 CFR 404.304(d), 404.403, 404.404, 404.407(a), 404.623; Social Security Ruling 62-7.

Circuit: First (Maine, New Hampshire, Massachusetts, Rhode Island, Puerto Rico).

Parisi By Cooney v. *Chater*, 69 F.3d 614 (1st Cir. 1995).

Applicability of Ruling: This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, Administrative Law Judge (ALJ) hearing or Appeals Council).

Description of Case: Anthony Parisi, the worker, became disabled in February 1988. He and Anthony Parisi II, his dependent child and the plaintiff in this case, began receiving Social Security benefits on Anthony Parisi's earnings record. In 1991, Adriana Parisi, the worker's spouse, became entitled to retirement benefits (old-age benefits) based on her own earnings record. Under section 202(r) of the Act, Adriana was deemed also to have applied for and become entitled to wife's benefits based on the worker's earnings record. The Social Security Administration (SSA) determined under section 202(k)(3)(A) of the Act that because the monthly retirement benefits that Adriana was entitled to receive on her own record exceeded the amount of her monthly wife's benefits on Anthony Parisi's earnings record, she could only receive payment for the retirement benefits payable on her own earnings record.

SSA counted the wife's benefits to which Adriana was entitled, but which were not actually paid to her, toward the monthly maximum amount of benefits payable on Anthony Parisi's earnings record under section 203(a) of the Act (the family maximum). Because the total monthly amount of Anthony's disability benefits, the plaintiff's child's benefits, and Adriana's wife's benefits exceeded the monthly family maximum limit, SSA reduced the amount of the plaintiff's and the wife's monthly benefits.

The plaintiff's request for reconsideration of the benefit reduction was denied, and he requested a hearing before an ALJ. The ALJ found that Adriana's wife's benefits should not be counted toward the family maximum. However, the Appeals Council reversed the ALJ's decision and the plaintiff appealed to the district court. The district court found that the family maximum limit on monthly benefits was meant to include only ''effective entitlements'' that result in actual payment of benefits. Because Adriana's entitlement to wife's benefits was only ''conditional'' upon her not being entitled to a greater amount of monthly benefits on her own earnings record, the district court concluded that Adriana's wife's benefits should not be counted toward the family maximum. SSA appealed and the United States Court of Appeals for the First Circuit, while offering somewhat different reasoning, found that the district court correctly reversed the Appeals Council's decision.

Holding: After reviewing the statutory language in sections 203(a) and 202(k)(3)(A) of the Act, the legislative history, SSA's regulations and policy considerations, the Court of Appeals held that ''Adriana's non-payable spousal benefits d[id] not count toward the section [2]03(a) 'family maximum' . . . [because] section [2]03(a) operates to limit the total amount of benefits actually *payable* on a single worker's record, not the amount of entitlements theoretically available.'' The court further held that because Adriana's deemed entitlement to wife's benefits resulted in ''*zero payable* benefits'' under section 202(k)(3)(A) of the Act, none of her benefits should be included in the family maximum computation required under section 203(a).

Without reviewing SSA's definition of ''entitlement,'' the court reasoned that, if SSA was correct in arguing that section 203(a) of the Act places a limit on entitlements, it would be contradictory and impossible to enforce compliance with the family maximum cap by reducing payable benefits. The court held that section 203(a) of the Act requires SSA to consider the actual amount of benefits payable under the relevant benefits provisions (read as a whole), not purely theoretical entitlements, in calculating the total monthly benefits payable on the worker's earnings record. The court noted that its conclusion did not undermine SSA's definition of ''entitlement'' and that Adriana had entitlement, in an abstract way, to wife's benefits under section 202(b)(1) of the Act.[1]

The court also held that the statutory language requires that monthly benefits be reduced under the family maximum only as much ''*as necessary*'' to enforce compliance and that, because the reduction in Parisi's case depended on the calculation of Adriana's wife's benefits, which amounted to zero due to her simultaneous entitlement to a higher benefit on her own earnings record, a reduction was not necessary. Accordingly, the court concluded that

[1] The First Circuit's reasoning differed from the district court's analysis that distinguished between ''effective'' and ''conditional'' entitlements. The court held that this distinction had ''no roots in the statutory language.''

the total amount of benefits payable on the worker's record did not exceed the family maximum and that Anthony's child's benefits should not be reduced.

Statement As To How Parisi Differs From Social Security Policy

Section 203(a) of the Act establishes a limit, derived from the worker's primary insurance amount, on the total monthly benefits to which dependents or survivors may be entitled on the basis of one worker's earnings record (the family maximum). Under SSA's regulations implementing section 203(a) of the Act (20 CFR 404.403 and 404.404), the benefits of each claimant entitled on a worker's earnings record are reduced proportionately so that the total benefits of those entitled on the record in one month do not exceed the family maximum. In calculating total monthly benefits, SSA includes all benefits of the claimants who are entitled on the worker's record without considering whether the benefits are actually due or payable.

The *Parisi* court held that, when computing a reduction under the family maximum pursuant to section 203(a) of the Act, SSA should not include the monthly benefit that would otherwise be payable to the spouse if payment of that spouse's benefit is precluded by section 202(k)(3)(A) of the Act due to the spouse's simultaneous entitlement to a higher benefit on the spouse's own earnings record.

Explanation of How SSA Will Apply The Parisi Decision Within The Circuit

This Ruling applies only to cases involving claimants whose benefits are reduced because of the family maximum and who reside in Maine, New Hampshire, Massachusetts, Rhode Island or Puerto Rico at the time of the determination or decision at any administrative level, i.e., initial, reconsideration, ALJ hearing or Appeals Council.

When the total benefits due or payable for any month on the earnings record of a worker exceed the maximum amount under section 203(a) of the Act (the family maximum applies) and a person entitled on the worker's earnings record is simultaneously entitled to benefits on another earnings record, SSA will consider only the amount of monthly dependent's or survivor's benefits actually due or payable to the simultaneously-entitled person when determining the amount of the benefit reduction because of the family maximum. Adjudicators will continue to apply SSA's other policies for applying and calculating the family maximum reduction.

[FR Doc. 97–667 Filed 1-10-97; 8:45 am]

BILLING CODE 4190-29-F

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, Washington National Airport, Washington, DC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Metropolitan Washington Airport Authority (MWAA) for the Washington National Airport (DCA) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for DCA under part 150 in conjunction with the noise exposure maps and that this program will be approved or disapproved on or before July 3, 1997.

EFFECTIVE DATE: The effective date of FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is January 3, 1997. The public comment period ends March 3, 1997.

FOR FURTHER INFORMATION CONTACT: Frank Squeglia, Environmental Specialist, FAA Eastern Regional Office, Airports Division, AEA–610, Fitzgerald Building, JFK International Airport, Jamaica, NY 11430; (718) 553–3325. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for DCA are in compliance with applicable requirements of Part 150, effective January 3, 1997. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before July 3, 1997. This notice also announces the availability of this program for public review and comment.

Under Section 103 to Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the way in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The MWAA submitted to the FAA on October 9, 1990, noise exposure maps, description and other documentation which were produced during an airport noise compatibility planning study from 1985 to 1990. The original document was dated August 1990. It was requested that the FAA review this material as the noise exposure maps, as described in Section 103(a)(1) of the act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under Section 104(b) of the Act. FAA's preliminary review of the Study in accordance with 14 CFR Part 150.31 required changes to the Study.

On March 30, 1994, MWAA submitted its revised Part 150 Noise Compatibility Program (NCP), dated December 1993, to the FAA. The FAA's preliminary review of the revised NCP raised concerns about the use of the 1989 Noise Exposure Map (NEM) as the base case NEM and use of the ''1994 Noise Exposure Map: Improved Fleet Mix and Enhanced Compliance,'' shown in the revised document as Figure V–3, as the ''five-year'' NEM. FAA and Authority staff have discussed this matter and recommend the use of this 1994 NEM as the base case NEM, and the use of the ''All Stage 3 Operations'' NEM, shown in Attachment 1 of the document as Figure 8, for the five-year forecast NEM. These uses of the 1994 NEM and the ''All Stage 3 Operations'' NEM are consistent with the guidelines set forth in 14 CFR Part 150.21 (a) and (a)(1). MWAA has presented an Addendum, dated November 22, 1996,

to the revised December 1993, part 150 Noise Compatibility Program for Washington National Airport. The Addendum includes reasonable justification for the use of the above stated NEM's as the official Maps.

The FAA has completed its review of the Addendum and the NEM's and related descriptions submitted by the MWAA. The specific maps as identified in the Addendum are the ''1994 Noise Exposure Map: Improved Fleet Mix and Enhanced Compliance as the base case/current NEM shown in the revised NCP as Figure V–3, and the ''All Stage 3 Operations'' NEM shown in Attachment 1 of the NEM as Figure 8 as the five-year forecast NEM. The FAA has determined that these maps for DCA are in compliance with applicable requirements. This determination is effective January 3, 1997. FAA's determination on an airport operator's NEM is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150.

Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a NCP or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a NEM submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land-use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act.

The FAA has relied on the certification by the airport operator under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for DCA, also effective on January 3, 1997. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before July 3, 1997.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land-use authorities, will be considered by the FAA to the extent practicable. The public comment period ends March 3, 1997. Copies of the noise exposure maps, the FAA's evaluation of the maps and the proposed noise compatibility program are available for examination at the following locations:

FAA—National Headquarters, 800 Independence Ave., SW, APP–600, Washington, DC 20591

FAA—Eastern Region, Fitzgerald Federal Bldg., JFK Int'l Airport, Airports Division, AEA–600, Jamaica, NY 11430

Airport Manager's Office, Rm. 260, Washington National Airport, Washington, DC 20001

Neil Phillips, Manager, Noise Abatement, Metropolitan Washington Airports Authority, 44 Canal Center Plaza, Alexandria, VA 22314.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Jamaica, New York on January 3, 1997.

William DeGraaff,

Manager, Airports Division.

[FR Doc. 97–791 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–13–M

Notice of Finding of No Significant Impact

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Federal Aviation Administration (FAA) has made a finding of no significant impact (FONSI) based on an Environmental Assessment (EA) for Special Flight Rules in the vicinity of the Rocky Mountain National Park (RMNP).

FOR FURTHER INFORMATION CONTACT: Mr. William J. Marx, Federal Aviation Administration, Office of Air Traffic Airspace Management, Environmental Programs Division, ATA–300, 800 Independence Avenue, SW, Washington, DC 20591; Telephone: (202) 267–3075.

SUPPLEMENTARY INFORMATION:

Proposed Action

On April 22, 1996, President Clinton issued a Memorandum for Heads of Executive Departments and Agencies, in which he announced his Earth Day initiative, *Parks for Tomorrow*. Included in that initiative was the directive to the Secretary of Transportation, in consultation with appropriate officials, to consider a rulemaking to address the potential adverse impacts on RMNP and its visitors of overflights by sightseeing aircraft. The President's announcement also directed that the value of the natural quiet and the natural experience of the park be factors in any rulemaking action, along with protection of public health and safety. The Presidential Memorandum also required the FAA to issue a notice of proposed rulemaking (NPRM) establishing national standards for air tour operations over national parks.

The proposed rule for RMNP was to be issued within 90 days. On May 15, 1996 (61 FR 24382), the FAA published a NPRM that proposed several methods of preserving the natural park experience of RMNP by restricting aircraft-based sightseeing flights: (1) A total ban (2) limits on operations, and (3) voluntary agreements. The NPRM indicated that the FAA would select a viable alternative based on comments received and other pertinent information, identify a proposed alternative for final rulemaking, and if rulemaking was selected, issue an EA for public comment. The NPRM indicated that the EA would evaluate the alternatives identified for detailed study and assess the current condition and the preferred alternative.

To enhance opportunities for public participation, the FAA reopened the comment period on the NPRM to allow comment on a Draft EA that addressed

the alternatives in the NPRM. In preparing the final EA, the FAA considered the public comments on environmental issues. Those comments were limited in number, and mainly addressed the NPRM itself. The majority of comments on the Draft EA were favorable to the implementation of the NPRM as it applies to a total of air tour operations in RMNP, e.g., citing excessive noise, reduced safety, and loss of quality wilderness experience if tour operations were allowed. A minority of commenters, virtually all representing aviation interests, voiced opposition to any regulation of overflights at RMNP, e.g., citing unreasonable interference with interstate and intrastate commerce, FAA's lack of statutory authority to implement the NPRM, and that air tourism creates less pollution than ground visitors. In response to comments, the FAA has decided to take temporary action here, complete a review of the temporary ban within twenty-four months, and proceed to consider a national rule that will supersede any temporary ban that remains in effect.

The FAA by issuance of the proposed Final Rule would temporarily ban operators from conducting commercial air tour operations within the RMNP Special Flight Rules Area (SFRA). The ban on commercial air tour operations is the preferred alternative for a temporary period because it appears to be the most efficient and viable method of preserving the natural enjoyment of the visitors to RMNP. In application and result it would assure that the environment relative to air tour operators will not be degraded while the benefits of a temporary ban are evaluated or relevant national standards are developed. Within twenty-four months of the effective date of this temporary ban, the FAA, in conjunction with the National Park Service (NPS), will complete a review of the temporary ban and publish its findings in the Federal Register. The FAA will determine whether the ban continues to be necessary to meet the objectives of the FAA and NPS. If the Proposed Final Rule is not repealed by a separate rulemaking, it will expire as soon as a general rule on national standards is adopted.

Purpose

National parks are unique resources that have been provided special protection by law. The FAA and the NPS recognize that commercial aviation sightseeing tours, once initiated in national parks, tend to increase to levels that potentially adversely affect visitor enjoyment and park values.

The special flight rules in the vicinity of the RMNP seek to preserve the natural environment of RMNP from potential future overflights by commercial sightseeing aviation tour operators. Several operators have recently explored the possibility of conducting tour flights over RMNP and the park has identified potential impacts from such activities. The NPS has also determined that such impacts would not be acceptable given the particular circumstances at the park, and has identified a need to take preventive action.

Experience demonstrates a trend of increased commercial air tour overflight at other national parks. In addition, the Governor of Colorado, members of the Colorado congressional delegation, and other officials have requested regulatory action to place a preemptive ban on air tour operations to preserve visitor enjoyment.

The RMNP rule is being adopted to respond to the very unique circumstances surrounding this park, as explained in detail in the proposed Final Rule and Final EA. Among the unique circumstances is that it has a high percentage of elevations above 10,000 feet above ground level (AGL) and has roads that afford numerous opportunities for viewing its vistas. Park officials estimate that fifty percent of the park can be seen from 149 miles of its roads. it features Trail Ridge Road, the highest continuous paved road in the country, which offers spectacular vistas that encompass approximately 415 squire miles of parkland. Further, there is strong local support for a ban on air tour overflights.

Environmental Impacts

The FAA has prepared the EA for the proposed Final Rule consistent with FAA Order 1050.1D, Para. 35. The major categories of concern are noise, wildlife, historic and cultural resources, and air quality. Since there are no tours at present, modified Alternative 1, the temporary ban, would maintain the existing environment relative to such operations. Based upon consultation with the US Fish and Wildlife Service, there are no concerns about potential impacts on threatened or endangered species. Based upon consultation with the Colorado State Historic Preservation Society, in its capacity as the State Historic Preservation Office for Colorado, there are no potentially significant effects on historic or cultural properties. The requirement to determine conformity with the State Air Quality Implementation Plan pursuant to Section 176(c) of the Clean Air Act as amended in 1990, does not apply because the area is designated attainment for all criteria pollutants. Modified Alternative 1, the temporary ban, should have a beneficial impact by reducing potential emissions. Implementation of the other alternatives and the No Action Alternative should not appreciably affect air quality. Regarding Section 4(f) of the Department of Transportation Act, Section 4(g) is not triggered because the proposed Final Rule does not involve construction activity so as to cause actual, physical use of RMNP. Further, the proposed Final Rule potentially reduces rather than increase noise levels, and accordingly does not substantially interfere with the use and value of RMNP, resulting in a constructive use. The EA has not disclosed potentially significant direct or indirect impacts affecting the quality of the human environment. Based on this EA, it has been determined that no additional environmental analysis is required and that all aspects of the proposed Federal action are consistent with a Finding of No Significant Impact.

Alternatives

The FAA completed an analysis of various alternatives identified in the Proposed Final Rule, including an explanation for the selection of a modified Alternative 1 as the Preferred Alternative. Modified Alternative 1 is a temporary ban, which is to expire upon adoption of a national rule on air tour standards as explained above. In developing alternatives for study in this EA, the FAA was guided by the purposes and need for this rulemaking and its statutory mission and objectives, as well as those of the NPS. Alternatives other than the temporary ban that were considered were a limit on commercial aviation sightseeing tour below 2,000 feet AGL in RMNP, and voluntary agreements. The ''no action'' alternative, the continued possibility of air tour operators to conduct tour flights over RMNP, was also considered. It was found to have no significant environmental impacts. However, it does not meet the FAA's and NPS objective to initiate preventive action to preserve the natural enjoyment of visitors to the RMNP.

Conclusion

After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in Section 101(a) of the National Environmental Policy Act of 1969, as amended (NEPA) and that it will not

significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to Section 102(2)(c) of NEPA.

Dated: January 6, 1997.

Nancy B. Kalinowski,

Manager, Planning and Analysis Division, ATA–200, Air Traffic Airspace Management, FAA Headquarters.

[FR Doc. 97–664 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–97–1]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before January 30, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Fred Haynes (202) 267–3939 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on January 7, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28679.

Petitioner: King County Department of Public Safety.

Sections of the FAR Affected: 14 CFR 135 and 49 CFR § 41102.

Description of Relief Sought: To permit King County Department of Public Service to be reimbursed for the use of its military surplus Bell UH–1H and OH–58C helicopters for law enforcement operations in support of other political subdivisions that are not of a common treasury with King County.

Dispositions of Petitions

Docket No.: 10633

Petitioner: FAA Technical Center

Sections of the FAR Affected: 14 CFR 91.117(a), 91.119(c), 91.159(a), and 91.303(e)

Description of Relief Sought/ Disposition: To permit the FAA Technical Center to conduct flight operations in support of its research and development projects without meeting certain FAA regulations governing: 1) aircraft speed, 2) minimum safe altitudes, 3) cruising altitudes for flights conducted under visual flight rules, and 4) aerobatic flight. *GRANT, November 22, 1996, Exemption No. 1200B.*

Docket No.: 23495.

Petitioner: U.S. Army Aeronautical Service Agency.

Sections of the FAR Affected: 14 CFR 91.209 (a) and (b).

Description of Relief Sought/ Disposition: To continue to permit the Army to conduct certain military training operations at night without lighted aircraft position lights. *GRANT, November 22, 1996, Exemption No. 3946E.*

Docket No.: 26695.

Petitioner: Comair Aviation Academy.

Sections of the FAR Affected: 14 CFR 141.65.

Description of Relief Sought/ Disposition: To allow Comair Aviation academy to recommend graduates of its approved flight instructor-airplane certification course for flight instructor certificates without those graduates taking the FAA flight test. *GRANT, November 14, 1996, Exemption No. 5523C.*

Docket No.: 28445.

Petitioner: Aircraft Braking Systems Corporation.

Sections of the FAR Affected: 14 CFR 43.9(a)(4), 43.11(a)(3), appendix B to part 43, and 145.57(a).

Description of Relief Sought/ Disposition: To allow the petitioner to use computer-generated electronic signatures in lieu of physical signatures to satisfy approval for return-to-service signature requirements. *GRANT, October 31, 1996, Exemption No. 6542.*

Docket No.: 28563.

Petitioner: Mercer County Community College.

Sections of the FAR Affected: 14 CFR 141.91.

Description of Relief Sought/ Disposition: To permit the petitioner to provide ground school courses over interactive television simultaneously to three institutions while notifying only one Flight Standards District Office (FSDO), instead of notifying each FSDO having jurisdiction over the individual satellite base. *DENIAL, November 12, 1996, Exemption No. 6543.*

Docket No.: 28628.

Petitioner: William W. Webb.

Sections of the FAR Affected: 14 CFR 91.109(a).

Description of Relief Sought/ Disposition: To allow the petitioner to conduct certain flight instruction in Beechcraft Bonanza airplanes equipped with a functioning throwover control wheel in place of functional dual controls. *GRANT, November 21, 1996, Exemption No. 6544.*

[FR Doc. 97–662 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–97–2]

Petitions for Exemptions; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I),

dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before January 30, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Fred Haynes (202) 267–3939 or Angela Anderson (202) 267–9681, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on January 7, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28619.
Petitioner: Hal R. Horton.
Sections of the FAR Affected: 14 CFR 135.267(b)(2) and (c) and 135.269(b)(2), (3) and (4).
Description of Relief Sought: To permit F.S. Air Service, Inc. to assign its flight crewmembers and allow its flight crewmembers to accept a flight assignment of up to 16 hours of flight time during a 20-hour duty period for the purpose of conducting international emergency evacuation operations.

Docket No.: 28621.
Petitioner: Robert P. Silverberg.
Sections of the FAR Affected: 14 CFR 121.689(b) and 121.697.
Description of Relief Sought: To permit Kitty Hawk Aircargo, Inc. to implement a computerized flight following system for transmitting flight release reports to flight crewmembers.

Docket No.: 28724.
Petitioner: Northwest Airlines, Inc..
Sections of the FAR Affected: 14 CFR 119.67(a)(1).
Description of Relief Sought: To allow the petitioner to appoint an individual who does not hold an Airline Transport Pilot certificate to serve in the capacity of Director of Operations.

Docket No.: 28759.
Petitioner: Associated Air Center.
Sections of the FAR Affected: 14 CFR 25.2(b).
Description of Relief Sought: To allow the removal of emergency exist door R3 on a Boeing 757 airplane configured with a 46-passenger VIP interior, which would violate the requirements of § 25.807(c)(7) in effect on July 25, 1989, relative to the maximum 60 ft. distance allowed between exits.

Docket No.: 28761.
Petitioner: Boeing Commercial Airplane Group.
Sections of the FAR Affected: 14 CFR 25.1435(b)(1).
Description of Relief Sought: To permit the petitioner to demonstrate compliance with § 25.1435(b)(1) for the Boeing Model 757–300 by a range-of-motion test of the tail skid system at just below the system relief pressure in lieu of a static test.

[FR Doc. 97–663 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss general aviation operations issues.

DATES: The meeting will be held on January 28, 1997, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Mr. Louis C. Cusimano, Assistant Executive Director for General Aviation Operations, Flight Standards Service (AFS–800), 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–8452; FAX: (202) 267–5094.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to discuss general aviation operations issues. This meeting will be held on January 28, 1997, at 9:30 a.m., at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

The agenda for this meeting will include status reports from the part 103 (Ultralight Vehicles) Working Group and the IFR Fuel Requirements/ Destination and Alternate Weather Minimums Working Group. In addition, a new Assistant Chair will be introduced and meeting dates for the remainder of 1997 will be confirmed.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC on January 3, 1997.

Michael Henry,

Acting Assistant Executive Director for General Aviation Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–665 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Emergency Evacuation Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting on the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss emergency evacuation issues.

DATES: The meeting will be held on January 30, 1997 at 9:00 a.m. Arrange for oral presentations by January 15, 1997.

ADDRESSES: The meeting will be held at McDonnell Douglas, 3855 North Lakewood Boulevard, Building 800, Long Beach, CA 90808.

FOR FURTHER INFORMATION CONTACT: Jackie Smith, Office of Rulemaking, ARM–209, FAA, 800 Independence

Avenue, SW, Washington, DC 20591, Telephone (202) 267–9682, FAX (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held on January 30, 1997 at McDonnell Douglas, 3855 North Lakewood Boulevard, Long Beach, CA 90808.

The agenda will include:

- Opening Remarks.
- Review of Action Items.
- Report on Performance Standards Working Group Activities.

Attendance is open to the public, but will be limited to space available. The public must make arrangements by January 30, 1997 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the Assistant Executive Director for Emergency Evacuation Issues or by providing copies at the meeting. In addition, sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on January 7, 1997.

Ava L. Mims,

Assistant Executive Director for Emergency Evacuation Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–787 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee to discuss rotorcraft issues, current rulemaking actions, and future activities and plans.

DATES: The meeting will be held on February 5, 1997, 11 a.m. or later, PST, to begin immediately following the Public Meeting on Advisory Circulars 27–1 and 29–2, Arrange for oral presentations by January 24, 1997.

ADDRESSES: The meeting will be held at the Anaheim Hilton and Towers, Huntingon Theater Room, 777 Convention Way, Anaheim, California 92802.

FOR FURTHER INFORMATION CONTACT: David Higginbotham, Office of Rulemaking, Aircraft & Airport Rules Division, ARM–200, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3498.

SUPPLEMENTARY INFORMATION: The referenced meeting is announced pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. ll). The agenda will include status reports on each of the following:

1. Harmonization of Miscellaneous Rotorcraft Regulations.
2. Rotorcraft External Load Combination Safety Requirements.
3. Normal Category Gross Weight and Passenger Issues.
4. Performance and Handling Qualities Requirements.
5. Critical Parts.

Attendance is open to the public but will be limited to the space available. The public must make arrangements by January 24, 1997, to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 16 copies to the Assistant Chair or by providing the copies to him at the meeting. In addition, sign and oral interpretation, as well as listening device, can be made available at the meeting if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Forth Worth, Texas, on January 6, 1997.

Mark R. Schilling,

Assistant Executive Director for Rotorcraft Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–790 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., Technical Management Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), noticed is hereby given for the RTCA Technical Management Committee meeting to be held January 27, 1997, starting at 9:00 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: (1) Chairman's Remarks; (2) Review and Approval of Summary of the Previous Meeting; (3) Consider and Approve: a. Proposed Final Draft, Assessment of Radio Frequency Interference Relevant to the GNSS; b. Proposed Final Draft, Change 1, Minimum Operational Performance Standards for ATC Two-way Data Link Communications; c. Proposed Final Draft, Minimum Operational Performance Standards for Traffic Information Service Data Link Communications; d. Proposed Final Draft, Human Engineering Guidance for Data Link Systems; e. Proposed Final Draft, Minimum Aviation System Performance Standards: Required Navigation Performance for Area Navigation; f. Proposed Final Draft, Aeronautical Spectrum Planning for 1997–2010; g. Proposed Final Draft, Change 1, Minimum Operational Standards for Mode S Airborne Data Link Processor; h. Proposed Final Draft, Change 2, Minimum Operational Performance Standards for the Air Traffic Control Radar Beacon System/ Mode Select Airborne Equipment; (4) Discuss/Take Position on: a. FAA Request for a Special Committee on National Airspace System Restructuring; b. National Oceanic and Atmospheric Administration Request to Modify RTCA Document DO–204, Minimum Operational Performance Standards for 406 MHz ELT's; (5) Other Business (e.g., FAA Letter Concerning Receiver Front-end Performance in the HIRF Environment); (6) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, D.C. 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on January 7, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–789 Filed 1–10–97; 8:45 am]

BILLING CODE 4810–13–M

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In December 1996, there were eight applications approved. Additionally, two approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of 49 U.S.C. 40117 (Pub. L. 103–272) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Johnstown-Cambria County Airport Authority, Johnstown, Pennsylvania.

Application Number: 96–02–C–00–JST.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Approved Net PFC Revenue in This Decision: $14,250.

Charge Effective Date: November 1, 1993.

Charge Expiration Date: December 1, 1996.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Snow removal equipment, Terminal apron seal coat, Terminal building renovation study, Update the airport layout plan (ALP).

Decision Date: December 3, 1996.

FOR FURTHER INFORMATION CONTACT: L.W. Walsh, Harrisburg Airports District Office, (717) 782–4548.

Public Agency: City of Colorado Springs, Colorado.

Application Number: 96–03–C–00–COS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $1,591,600.

Estimated Charge Effective Date: April 1, 2000.

Estimated Charge Expiration Date: September 1, 2000.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Construct taxiway N.

Decision Date: December 5, 1996.

FOR FURTHER INFORMATION CONTACT: Christopher Schaffer, Denver Airports District Office, (303) 286–5525.

Public Agency: Tri-State Airport Authority, Huntington, West Virginia.

Application Number: 96–02–C–00–HTS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $366,600.

Estimated Charge Effective Date: March 1, 1998.

Estimated Charge Expiration Date: February 1, 1999.

Classes of Air Carriers not Required to Collect PFC's: (1) Unscheduled Part 135 charter operators for hire to the general public; (2) unscheduled Part 121 charter operators for hire to the general public.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Tri-State Airport.

Brief Description of Projects Approved for Collection and Use: Prepare PFC application number 2, Repair slide runway 30 safety area.

Decision Date: December 5, 1996.

FOR FURTHER INFORMATION CONTACT: Elonza Turner, Beckley Airports Field Office, (304) 252–6216.

Public Agency: Port of Bellingham, Bellingham, Washington.

Application Number: 96–03–C–00–BLI.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $734,136.

Estimated Charge Effective Date: January 1, 1997.

Estimated Charge Expiration Date: January 1, 1998.

Classes of Air Carriers not Required to Collect PFC's: (1) Scheduled air carriers operating aircraft with less than 10 seats; (2) non-scheduled air carriers and charter flights using aircraft with less than 10 seats.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Bellingham International Airport.

Brief Description of Projects Approved for Collection and Use: Part 150 land acquisition program.

Brief Description of Projects Approved for Collection: Alpha taxiway pull-out on north.

Decision Date: December 11, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Vargas, Seattle Airports District Office, (206) 227–2660.

Public Agency: City of Minot, North Dakota.

Application Number: 96–02–C–00–MOT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $280,477.

Estimated Charge Effective Date: March 1, 1999.

Estimated Charge Expiration Date: August 1, 2000.

Classes of Air Carriers not Required to Collect PFC's: All air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Minot International Airport.

Brief Description of Projects Approved for Collection and Use: Acquire additional land adjacent to runway 13/31 and install security fencing, PFC amendment and use of application, Rehabilitate taxiways A and C, Perimeter fencing north and north-east sides, Environmental assessment for runway 8/26.

Brief Description of Projects Approved for Use: Acquire land adjacent to runway 13/31, Perimeter fencing east and south sides.

Decision Date: December 17, 1996.

FOR FURTHER INFORMATION CONTACT: Irene Porter, Bismarck Airports District Office, (701) 250–4385.

Public Agency: Indianapolis Airport Authority, Indianapolis, Indiana.

Application Number: 96–02–C–00–IND.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Approval Net PFC Revenue In This Decision: $36,622,175.

Estimated Charge Effective Date: November 1, 2001.

Estimated Charge Expiration Date: June 1, 2004.

Class of Air Carriers Not Required to Collect PFC'S: Air Taxi/commercial operators exclusively filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Indianapolis International Airport.

Brief Description of Projects Approved for Collection and Use: Airfield de-icing materials storage facility, NPDES storm water permit, Storm water control basins, Taxiway access stubs, Update airport master plan and revise ALP, Update Part 150 noise plan, Construction of taxiway B, Extent taxiway R, Rehabilitation and extension of tug roads, Pavement removal, Construct taxiway N, Construct taxiway N connector, Update environmental assessment, Construct hush house, Purchase operational equipment, Construct international arrivals gate, Perimeter road connection.

Decision Data: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Louis H. Yates, Chicago Airports District Office, (847) 294–7335.

Public Agency; County of Dane, Madison, Wisconsin.

Application Number: 96–02–U–00–MSN.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue Approved for Use in This Decision: $6,896,000.

Charge Effective Date: September 1, 1993.

Estimated Charge Expiration Date: May 1, 2000.

Class of Air Carriers not Required To Collect PFC's: No charge from previous decision.

Brief Description of Project Approved for Use: Construct runway 3/21.

Decision Date: December 26, 1996.

FOR FURTHER INFORMATION CONTACT: Sandra E. DePottey, Minneapolis Airports District Office, (612) 725–4221.

Public Agency: City of Laredo, Texas.

Application Number: 96–02–U–00–LRD.

Application Type: Use of PFC revenue.

PFC Level: $3.00.

Total PFC Revenue Approved for Use in this Decision: $6,303,846.

Charge Effective Date: October 1, 1993.

Estimated Charge Expiration Date: July 1, 2010.

Class of Air Carriers not Required To Collect PFC'S: No charge from previous decision.

Brief Description of Projects Approved For use: PFC reimbursable projects, Construct new passenger terminal building and related improvements, Reconstruct runway 17L/35R, Construct a parallel taxiway to runway 17L/35R, Airfield signage improvements, Airfield electrical improvements.

Decision Date: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge expiration date	Amendment estimated charge expiration date
93–01–C–01–IND Indianapolis, IN.	12/05/96	$117,344,750	$78,322,575	07/01/05	11/01/01
93–01–C–01–TOL Toledo, OH.	12/23/96	2,750,896	2,246,374	09/01/96	09/01/96

Issued in Washington, D.C. on January 7, 1997.

Joseph M. Hebert,

Acting Manager, Passenger Facility Charge Branch.

[FR Doc. 97–788 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Allegheny and Washington Counties, Pennsylvania

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for proposed transportation improvements between I–79 and the Mon/Fayette Toll Expressway, known locally as a Southern Beltway Transportation Project, in Washington County, Pennsylvania. This notice supersedes the Notice of Intent published in the Federal Register, Volume 58, Number 154, Page 43005, on August 12, 1993, for the Southern Beltway.

FOR FURTHER INFORMATION CONTACT: David W. Cough, District Engineer, Federal Highway Administration, 228 Walnut Street, Room 558, Harrisburg, Pennsylvania 17101–1720, Telephone: (717) 782–3411; Daryl L. Kerns, Turnpike Liaison Engineer, Pennsylvania Department of Transportation, 113 Transportation & Safety Building, Harrisburg, Pennsylvania 17120, Telephone: (717) 787–0185; or Paul A. Edmunds, Acting Chief Engineer, Pennsylvania Turnpike Commission, P.O. Box 67676, Harrisburg, Pennsylvania 17106–7676, Telephone: (717) 939–9551.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation and the Pennsylvania Turnpike Commission will prepare an Environmental Impact Statement (EIS) on a proposal for a limited access toll highway in Washington County, south of Pittsburgh, Pennsylvania. The proposed highway would extend from the Interstate south of the Allegheny County and Washington County line, easterly to the Mon/Fayette Expressway, about 21 kilometers (13 miles) south of Pittsburgh. The study corridor is about 19 kilometers (12 miles) long and about 2.5 kilometers (1.5 miles) wide.

The proposed highway is considered necessary to improve the movement of people and goods from the Mon Valley to Interstate 79 in the area south of Pittsburgh. Preliminary studies and public and agency input have indicated that the project needs cannot be met by Transportation System Management (TSM) activities, upgrading existing roadways or mass transit improvements. Alternatives now under consideration are various alignments for a new tolled expressway and taking no action.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and Local agencies and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held in the project area during the development of the project. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing. A Scoping Meeting was held on August 18 and 19, 1993, in Washington, Pennsylvania. Federal, state, regional, county, and municipal agencies attended and participated.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interest parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal

programs and activities apply to this program)

J. Stephen Guhin,

Assistant Division Administrator, Pennsylvania Division, FHWA.

[FR Doc. 97–678 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: Allegheny and Washington Counties, Pennsylvania

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for proposed transportation improvements between State Route 60 and US Route 22, known locally as a Southern Beltway Transportation Project and the Findlay Connector, in Allegheny and Washington Counties, Pennsylvania. This notice supersedes the Notice of Intent published in the Federal Register, Volume 58, No. 154, Page 43005, on August 12, 1993, for the Southern Beltway, and the Notice of Intent published in the Federal Register, Volume 56, No. 209, Pages 55707 and 55708 on October 29, 1991, for the Findlay Connector.

FOR FURTHER INFORMATION CONTACT: David W. Cough, District Engineer, Federal Highway Administration, 228 Walnut Street, Room 558, Harrisburg, PA 17101–1720, Telephone: (717) 782–3411; Daryl L. Kerns, Turnpike Liaison Engineer, Pennsylvania Department of Transportation, 1113 Transportation & Safety Building, Harrisburg, PA 17120, Telephone: (717) 787–0185; or Paul A. Edmunds, Acting Chief Engineer, Pennsylvania Turnpike Commission, P.O. Box 67676, Harrisburg, PA 17106–7676, Telephone: (717) 939–9551.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation and the Pennsylvania Turnpike Commission will prepare an Environmental Impact Statement (EIS) on a proposal for a limited access toll highway in Allegheny and Washington Counties, west of Pittsburgh, PA. The proposed improvement would extend from an interchange on State Route 60 west of the Pittsburgh International Airport (24 kilometers [15 miles] west of Pittsburgh), southwesterly to U.S. Route 22. The improvement corridor is about 10 kilometers (6.2 miles) long and about 2 kilometers (1¼ miles) wide. The proposed improvement is considered necessary to provide direct access from the south and west to the Pittsburgh International Airport area, and to provide improved access to planned development in the Airport area. Preliminary studies and public and agency input for the Southern Beltway Transportation Project and for the Findlay Connector have concluded that the project needs for both projects can be met with a single transportation project in the corridor between State Route 60 and U.S. Route 22. These studies also indicated that the project needs cannot be met by Transportation System Management activities, upgrading existing roadways or mass transit improvements. Alternatives now under consideration are various alignments for a new tolled expressway and taking no action.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and Local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held in the project area during the development of the project. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearings. The Draft EIS will be available for public and agency review and comment prior to the public hearing. A Scoping Meeting was held on August 18 and 19, 1993, in Washington, PA. Federal, state, regional, county, and municipal agencies attended and participated.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Planning Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

J. Stephen Guhin,

Assistant Division Administrator, Pennsylvania Division, FHWA.

[FR Doc. 97–680 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: Allegheny and Washington Counties, Pennsylvania

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for proposed transportation improvements between US Route 22 and I–79, known locally as a Southern Beltway Transportation Project, in Allegheny and Washington Counties, Pennsylvania. This notice supersedes the Notice of Intent published in the Federal Register Volume 58, Number 154, Page 43005, on August 12, 1993, for the Southern Beltway.

FOR FURTHER INFORMATION CONTACT: David W. Cough, District Engineer, Federal Highway Administration, 228 Walnut Street, Room 558, Harrisburg, Pennsylvania 17101–1720, Telephone: (717) 782–3411; Daryl L. Kerns, Turnpike Liaison engineer, Pennsylvania Department of Transportation, 1113 Transportation & Safety Building, Harrisburg, Pennsylvania 17120, Telephone: (717) 787–0185; or Paul A. Edmunds, Acting Chief Engineer, Pennsylvania Turnpike Commission, P.O. Box 67676, Harrisburg, Pennsylvania 17106–7676, Telephone: (717) 939–9551.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation and the Pennsylvania Turnpike Commission will prepare an Environmental Impact Statement (EIS) on a proposal for a limited access toll highway in Allegheny and Washington Counties, southwest of Pittsburgh, Pennsylvania. The proposed highway would extend from US Route 22, west of Pittsburgh, south easterly to Interstate 79, south of the Allegheny County-Washington County line, 24 kilometers (15 miles) southwest of Pittsburgh. The study corridor is about 19 kilometers (12 miles) long and up to 5.6 kilometers (3.5 miles) wide.

The proposed highway is considered necessary to improve the movement of people and goods in a rapidly growing area southwest of Pittsburgh. Preliminary studies and public and agency input have indicated that the project needs cannot be met by Transportation System Management (TSM) activities, upgrading existing roadways or mass transit improvements. Alternatives now under consideration are various alignments for a new tolled expressway and taking no action.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and Local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held in the project area

during the development of the project. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing. A Scoping Meeting was held on August 18 and 19, 1993, in Washington, Pennsylvania. Federal, state, regional, county, and municipal agencies attended and participated.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

J. Stephen Guhin,

Assistant Division Administrator, Pennsylvania Division, FHWA.

[FR Doc. 97–681 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Elk County, Pennsylvania

AGENCY: Federal Highway Administration (FHWA).

ACTION: Withdrawal of Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will not be prepared for a proposed highway project in Elk County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: David W. Cough, District Engineer, Federal Highway Administration, 228 Walnut Street, Room 558, Harrisburg, Pennsylvania 17101-1720, Telephone: (717) 782-3461 or James R. Bathurst, P.E., Design Services Engineer, Pennsylvania Department of Transportation, 1924-30 Daisy Street, Clearfield, Pennsylvania 16830, Telephone (814) 765-0437.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PennDOT), will now prepare an Environmental Assessment and Engineering Basis Reports for a section of U.S. Route 219 in Elk County, Pennsylvania. Located in Johnsonburg, Pennsylvania, this two-mile project will improve the safety and relieve traffic congestion on this section of U.S. Route 219. The northern terminus and study area limits will be the existing two lanes of U.S. Route 219 just north of the Johnsonburg. The southern terminus and study area limits will be approximately one-half mile south of Pennsylvania Route 255.

Five alternatives are being evaluated during the course of the study. Based on existing and projected traffic volumes, all build alternatives will require a two-lane facility to accommodate the traffic volumes. The alternatives under consideration are upgrading the existing facility, transportation system management, two alternatives on new location west of existing U.S. Route 219, and the ''NO BUILD'' alternate. Mass transmit and multi-modal design will not be considered on this project.

An active public participation program has been implemented on this project. A Citizens Advisory Committee has been actively involved throughout the design and environmental process. Public meetings have been held to ensure public input and participation.

The alternatives developed for this project have caused no public controversy on environmental grounds. Based upon the studies performed and consultation with both Federal and State Environmental Resource Agencies, an Environmental Assessment Evaluation will be performed to determine whether the subject project will have any significant impacts on the environment.

(Catalog of Federal Domestic Assistance Program Name 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding inter-government consultation on Federal Programs and activities apply to this program)

Manuel A. Marks,

Division Administrator, Federal Highway Administration.

[FR Doc. 97–676 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

[Docket Nos. 96–102; Notice 2, 96–105; Notice 2, 96–107; Notice 2, 96–111; Notice 2, 96–112; Notice 2]

Decision that Certain Nonconforming Motor Vehicles are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that certain nonconforming motor vehicles are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that certain motor vehicles not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and/or sale in the United States and certified by their manufacturers as complying with the safety standards, and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective January 13, 1997.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

NHTSA received petitions from registered importers to decide whether the vehicles listed in Annex A to this notice are eligible for importation into the United States. To afford an opportunity for public comment, NHTSA published notice of these petitions as specified in Annex A. The reader is referred to those notices for a thorough description of the petitions. No comments were received in response to these notices. Based on its review of the information submitted by the

petitioners, NHTSA has decided to grant the petitions.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle eligibility numbers assigned to vehicles admissible under this decision are specified in Annex A.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that each motor vehicle listed in Annex A to this notice, which was not originally manufactured to comply with all applicable Federal motor vehicle safety standards, is substantially similar to a motor vehicle manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, as specified in Annex A, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 8, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

Annex A—Nonconforming Motor Vehicles Decided To Be Eligible For Importation

1. Docket No. 96–102
   Nonconforming Vehicles: 1990–1993 Mercedes-Benz 300E 4Matic Passenger Cars
   Substantially similar U.S.-certified vehicles: 1990–1993 Mercedes-Benz 300E 4Matic Passenger Cars
   Notice of Petition published at: 61 FR 52992 (October 9, 1996)
   Vehicle Eligibility Number: VSP–192
2. Docket No. 96–105
   Nonconforming Vehicle: 1989 Honda Prelude
   Substantially similar U.S.-certified vehicle: 1989 Honda Prelude
   Notice of Petition published at: 61 FR 52993 (October 9, 1996)
   Vehicle Eligibility Number: VSP–191
3. Docket No. 96–107
   Nonconforming Vehicle: 1992 Mercedes-Benz 300TE Passenger Car
   Substantially similar U.S.-certified vehicle: 1992 Mercedes-Benz 300TE
   Notice of Petition published at: 61 FR 54252 (October 17, 1996)
   Vehicle Eligibility Number: VSP–193
4. Docket No. 96–111
   Nonconforming Vehicles: 1994, 1995, and 1996 Jaguar XJS Passenger Cars
   Substantially similar U.S.-certified vehicles: 1994, 1995, and 1996 Jaguar XJS
   Notice of Petition published at: 61 FR 56998 (November 5, 1996)
   Vehicle Eligibility Number: VSP–195
5. Docket No. 96–112
   Nonconforming Vehicles: 1990–1995 BMW 5 Series Passenger Cars
   Substantially similar U.S.-certified vehicles: 1990–1995 BMW 5 Series
   Notice of Petition published at: 61 FR 56997 (November 5, 1996)
   Vehicle Eligibility Number: VSP–194

[FR Doc. 97–767 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–127; Notice 1]

Notice of Tentative Decision That Nonconforming 1986 Daimler Limousines Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Request for comments on tentative decision that nonconforming 1986 Daimler Limousines are eligible for importation.

SUMMARY: This notice requests comments on a tentative decision by the National Highway Traffic Safety Administration (NHTSA) that a 1986 Daimler Limousine that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because it has safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The closing date for comments on this tentative decision is February 12, 1997.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards (FMVSS) shall be refused admission into the United States unless NHTSA has decided, either pursuant to a petition from the manufacturer or registered importer or on its own initiative, that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

On May 9, 1996, NHTSA received from Champagne Imports, Inc. of Lansdale, Pennsylvania (''Champagne'') (Registered Importer No. 90–009) a petition to decide whether a 1987 Daimler Limousine that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States. Champagne contended that this vehicle is eligible for importation under 49 U.S.C. 30141(a)(1)(A), on the basis that it is substantially similar to a 1985 Daimler Limousine that NHTSA determined to be eligible for importation through a notice published on July 20, 1992 at 57 FR 32051.

After reviewing the petition, NHTSA informed Champagne that the petition could not receive further consideration because the ''substantially similar'' vehicle it identified was not originally manufactured for import into and sale in the United States, as required under 49 U.S.C. 30141(a)(1)(A)(i), and was not of the same model year as the vehicle that was sought to be imported, as required under 49 U.S.C. 30141(a)(1)(A)(iii). In light of these circumstances, NHTSA advised Champagne to modify its petition to request that the vehicle be determined eligible for importation under 49 U.S.C. 30141(a)(1)(B), on the basis that its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Although Champagne did not formally modify the petition, it did submit to NHTSA a copy of a letter from Jaguar Cars (Jaguar), the United States representative of Jaguar Cars, Ltd., the vehicle's manufacturer. This letter identified the vehicle that Champagne seeks to import as, in actuality, a 1986 Daimler Limousine, and enumerated the Federal motor vehicle safety standards that the vehicle does not meet. Those are Standard Nos. 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 108 *Lamps, Reflective Devices, and Associated Equipment,* 110 *Tire Selection and Rims,* 114 *Theft Protection,* 202 *Head Restraints,* 203 *Impact Protection for the Driver from the Steering Control System,* 205

Glazing Materials, 208 *Occupant Crash Protection,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages, and* 301 *Fuel System Integrity.* Additionally, Jaguar stated that the vehicle does not meet the vehicle identification number requirements of 49 CFR part 565, or the Bumper Standard, found at 49 CFR part 581.

Champagne submitted to NHTSA an additional letter, from the Jaguar Daimler Heritage Trust of Coventry, England, stating that the vehicle it seeks to import was hand built, and of a type produced by Jaguar Cars Ltd. until 1992. This letter also stated that although there were ''small external cosmetic changes'' from vehicle to vehicle, ''the external shape, style, engine, gearbox, and chassis of the car all remained the same throughout its production build.'' Moreover, the letter provided confirmation that a Daimler Limousine built in 1986 ''would be no different than a similar car which was built in 1985 apart from any optional extras which may have been ordered * * *.''

Based on the information from the Jaguar Daimler Heritage Trust indicating that Daimler Limousines are in all essential respects identical from model year to model year, and NHTSA's prior determination that a 1985 Daimler Limousine is eligible for importation, NHTSA has tentatively decided that the 1986 Daimler Limousine that is the subject of Champagne's petition is eligible for importation.

Tentative Decisions

NHTSA hereby tentatively decides that a 1986 Daimler Limousine that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because it has safety features that comply with, or are capable of being altered to comply with, those standards.

Vehicle Eligibility Number

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. If this tentative decision is made final, all vehicles admissible under that decision will be assigned vehicle eligibility no. VCA–1.

Comments

Section 30141(b) of Title 49, U.S. Code requires NHTSA to provide a minimum period for public notice and comment on decisions made on its own initiative consistent with ensuring expeditious, but full consideration and avoiding delay by any person. NHTSA believes that a minimum comment period of 30 days is appropriate for this purpose. Interested persons are invited to submit comments on the tentative decision described above. It is requested, but not required, that five copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of NHTSA's final decision will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegation of authority at 49 CFR 1.50.

Issued on: January 8, 1997.

Ricardo Martinez, M.D.,

Administrator.

[FR Doc. 97–793 Filed 1–10–97; 8:45 am]

BILLING CODE 4910–59–P

Surface Transportation Board

[STB Docket No. AB–319 (Sub-No. 3X)]

Florida Central Railroad Company, Inc.; Abandonment Exemption in Seminole County, FL

Florida Central Railroad Company, Inc. (FCEN) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 0.2 miles of railroad between milepost F–1.1 and the end of the track at milepost F–0.9 in Forest City, Seminole County, FL.

FCEN has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 12, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by January 23, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 3, 1997, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Thomas J. Litwiler, Oppenheimer Wolff & Donnelly, Two Prudential Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, IL 60601.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

FCEN has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by January 17, 1997. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 6, 1997.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–733 Filed 1–10–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

December 26, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0916.

Regulation Project Number: E.E.–63–84 TEMP and E.E.–96–85 NPRM.

Type of Review: Extension.

Title: Effective Dates and Other Issues Arising Under the employee Benefit Provisions of the Tax Reform Act of 1984.

Description: These temporary regulations provide rules relating to effective dates and other issues arising under sections 91, 223 and 511–561 of the Tax Reform Act of 1984.

Respondents: Individuals or households.

Estimated Number of Respondents: 12,800.

Estimated Burden Hours Per Respondent: 31 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 6,500 hours.

OMB Number: 1545–1290.

Regulation Project Number: FI–81–86 Final.

Type of Review: Extension.

Title: Bad Debt Reserves of Banks.

Description: Sections 585(c) of the Internal Revenue Code requires large banks to change from the reserve method of accounting to the specific charge off method of accounting for bad debts. The information required by section 1.585–8 of the regulations identifies any election made or revoked by the taxpayer in accordance with section 585(c).

Respondents: Business or other for-profit.

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 625 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–727 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–P

Submission for OMB Review; Comment Request

December 27, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Financial Management Service (FMS)

OMB Number: 1545–0043.

Form Number: FMS–133 and FMS–135.

Type of Review: Reinstatement.

Title: Notice of Reclamation Electronic Funds Transfer, Federal Recurring Payments Request for Debit, Electronic Funds transfer, Federal Recurring Payments.

Description: A program agency authorizes Treasury to recover payments that have been issued after the death of the beneficiary. FMS Form 133 is used by Treasury to notify the financial organization (FO) of the FO's accountability concerning the funds. When the FO's do not respond to the FMS 133, Treasury then prepares FMS Form 135 an sends it to the Federal Reserve Bank which services the FO to request the FRB to debit the account of the FO.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 55,000.

Estimated Burden Hours Per Respondents: 12 minutes.

Frequency of Response: Other (as needed).

Estimated Total Reporting Burden: 50,930 hours.

OMB Number: 1510–0045.

Form Number: SF 150.

Type of Review: Reinstatement.

Title: Trace Request for EFT Payment.

Description: Purpose is to notify the financial organization that a customer (beneficiary) has claimed non-receipt of credit for a payment. The form is designed to help the financial organization locate any problem and to keep the customer (beneficiary) informed of any action taken.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 80,775.

Estimated Burden Hours Per Response: 8 minutes.

Frequency of Response: Other (as needed).

Estimated Total Reporting Burden: 10,770 hours.

Clearance Officer: Jacqueline R. Perry, (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–728 Filed 1–10–97; 8:45 am]

BILLING CODE 4810–35–P

Submission for OMB Review; Comment Request

January 2, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

U.S. Customs Service (CUS)

OMB Number: 1515–0001.

Form Number: None.

Type of Review: Extension.

Title: Air Cargo Manifest.

Description: Customs Form 7509 is the source of information that provides

for the accountability, integrity, and security of goods in air commerce that are imported into the United States.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 150.

Estimated Burden Hours Per Respondent: 34 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 99,116 hours.

OMB Number: 1515–0032.

Form Number: CF 5125.

Type of Review: Extension.

Title: Application for Withdrawal of Bonded Stores for Fishing Vessels and Certification of Use.

Description: The Customs Form 5125 is used for the withdrawal and lading of bonded merchandise (especially alcoholic beverages) for use on board fishing vessels and foreign or domestic vessels involved in international trade. The form also certifies the use: total consumption with secure storage for use on next voyage.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 42 hours.

OMB Number: 1515–0041.

Form Number: CF 6059B.

Type of Review: Extension.

Title: U.S. Customs Declaration.

Description: The U.S. Customs Declaration, Customs Form 6059B, facilitates the clearance of persons and their goods arriving in the territory on the U.S. by requiring basic information necessary to determine Customs exception status and if any duties of taxes are due. The form is also used for the enforcement of Customs and other agencies laws and regulations.

Respondents: Individuals or households.

Estimated Number of Respondents: 42,000,000.

Estimated Burden Hours Per Respondent: 3 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,100,000 hours.

OMB Number: 1515–0050.

Form Number: CF 3347 and CF 3347A.

Type of Review: Extension.

Title: Declaration of Owner of Merchandise Obtained (other than) in Pursuance of a Purchase or Agreement to Purchase and Declaration of Importer of Record When Entry if Made by an Agent.

Description: Customs Form 3347 and 3347A allows an agent to submit, subsequent to making the entry, the declaration of the importer of record which is required by statute. These forms also permits a nominal importer of record to file the declaration of the actual owner and to be relieved of statutory liability for the payment of increased duties.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 5,700.

Estimated Burden Hours Per Respondent: 6 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 570 hours.

OMB Number: 1515–0108.

Form Number: None.

Type of Review: Extension.

Title: Declaration of a Person Abroad Who Receives and is Returning Merchandise to the United States.

Description: The declaration is used under conditions where articles are imported and then exported and then reimported free of duty due to the declaration; and, it is used to insure Customs control over duty-free merchandise.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 250 hours.

OMB Number: 1515–0140.

Form Number: None.

Type of Review: Extension.

Title: Textile and Textile Products.

Description: Information is needed for Customs to be able to identify the Country of Origin of Textiles. The requirement prevents circumvention of bilateral agreements and ensures the proper assessment of duties. The declaration will be executed by the foreign manufacturer, exporter, or United States importer to be filed with the entry.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 45,810.

Estimated Burden Hours Per Respondent: 7 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 133,582 hours.

OMB Number: 1515–0142.

Form Number: None.

Type of Review: Reinstatement.

Title: Transfer of Cargo to a Container Station.

Description: The container station operator may file an application for transfer of a container intact to a container station which is moved from the place of unlading or from a bonded carrier after transportation in-bond before filing of the entry for the purpose of breaking bulk and redelivery.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 360.

Estimated Burden Hours Per Respondent: 6 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,495 hours.

OMB Number: 1515–0203.

Form Number: None.

Type of Review: Extension.

Title: Reporting Requirements for Vessels, Vehicles and Individuals.

Description: These regulations pertain to the arrival, entry, and departure reporting requirements applicable to vessels, vehicles, and individuals and informs the public regarding applicable penalty, seizure, and forfeiture provisions for violating these requirements.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 200,000.

Estimated Burden Hours Per Respondent: 45 seconds.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,500 hours.

Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Room 6216, 1301 Constitution Avenue, N.W., Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–729 Filed 1–10–97; 8:45 am]

BILLING CODE 4820–02–P

Submission to OMB for Review; Comment Request

January 7, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by

calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0666.
Form Number: IRS Form 673.
Type of Review: Extension.
Title: Statement for Claiming Benefits Provided by Section 911 of the Internal Revenue Code.
Description: Form 673 is completed by a citizen of the United States and is furnished to his or her employer in order to exclude from income tax withholding all or part of the wages paid the citizen for services performed outside the United States.
Respondents: Individuals or households.
Estimated Number of Respondents: 50,000.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 25,000 hours.

OMB Number: 1545–1029.
Form Number: IRS Form 8693.
Type of Review: Extension.
Title: Low-Income Housing Credit Disposition Bond.
Description: Low-income Housing Credit Disposition Bond, is needed per Internal Revenue code (IRC) section 42(j)(6) to post bond and waive the recapture requirement under section 42(j) for certain dispositions of a building on which the low-income housing credit was claimed. Internal Revenue regulations section 301.7101–1 requires that the posting of a bond must be done on the appropriate forms as determined by the Internal Revenue Service.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 1,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—13 minutes
Learning about the law or the form—14 minutes
Preparing, copying, assembling and sending the form to the IRS—40 minutes
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 1,120 hours.

OMB Number: 1545–1041.
Regulation Project Number: PS–102–86 Final.
Type of Review: Extension.
Title: Cooperative Housing Corporations.
Description: This regulation provides an elective alternative to the proportionate share rule for allocating interest and taxes to the tenant-stockholders of cooperative housing corporations.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 2,500.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: Other (one-time election).
Estimated Total Reporting Burden: 625 hours.

OMB Number: 1545–1353.
Regulation Project Number: FI–189–84 Final.
Type of Review: Extension.
Title: Debt Instruments with Original Issue Discount; Imputed Interest on Deferred Payment Sales or Exchanges of Property.
Description: These regulations provide definitions, reporting requirements, elections, and general rules relating to the tax treatment of debt instruments with original issue discount and the imputation of, and accounting for, interest on certain sales or exchanges of property.
Respondents: Business or other for-profit, Individuals or households, Farms, State, Local or Tribal Government.
Estimated Number of Respondents: 525,000.
Estimated Burden Hours Per Respondent: 21 minutes.
Frequency of Response: Other (per issuance of debt instrument with original issue discount).
Estimated Total Reporting Burden: 185,500 hours.

OMB Number: 1545–1369.
Form Number: IRS Form 9514.
Type of Review: Extension.
Title: Supervisor Assessment—SES Candidate Development Program.
Description: The data collected from this form is used by the executive panels responsible for screening internal and external applicants for the SES Candidate Development Program.
Respondents: Individuals or households, Federal Government.
Estimated Number of Respondents: 300.
Estimated Burden Hours Per Respondent: 5 hours.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 1,500 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 97–730 Filed 1–10–97; 8:45 am]
BILLING CODE 4830–01–P

Fiscal Service

Judgment Fund

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: The Financial Management Service (FMS) is announcing the transfer of the Judgment Fund function from the General Accounting Office to the FMS and the address to request certifications for payments from Judgment Fund accounts.

FOR FURTHER INFORMATION CONTACT: For additional information, contact the Judgment Fund Branch, room 6D33, 3700 East-West Hwy., Hyattsville, MD 20782; (202) 874–6664.

SUPPLEMENTARY INFORMATION: Pursuant to section 211 of Pub. L. 104–53, the Legislative Branch Appropriations Act of 1996 (109 Stat. 535), certain claims-related functions of the Comptroller General, including the Judgment Fund, were transferred to the Executive Branch. Effective June 30, 1996, the Secretary of the Treasury has been delegated responsibility for performing the Judgment Fund function.

Consequently, all requests for certifications for payments from the Judgment Fund accounts should be sent to the Judgment Fund Branch, room 6D33, 3700 East-West Hwy., Hyattsville, MD 20782. Sending such a request to the General Accounting Office may result in delay of payment, or lack of payment. Additional procedures for obtaining certifications for payments from Judgment Fund accounts may be found in I TFM 6–3100, obtainable from the address above.

Dated: January 7, 1997.

Diane E. Clark,
Assistant Commissioner, Financial Information.
[FR Doc. 97–732 Filed 1–10–97; 8:45 am]
BILLING CODE 4810–35–M

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97–6

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 97–6, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE Plan).

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, Room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Savings Incentive Match Plan for Employees of Small Employers (SIMPLE Plan).

OMB Number: 1545–1502.

Notice Number: Notice 97–6.

Abstract: This notice provides guidance for employers and trustees regarding how they can comply with the requirements of Internal Revenue Code section 408(p) in establishing and maintaining a SIMPLE Plan, including information regarding the notification and reporting requirements under Code section 408.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 300,000.

Estimated Time Per Respondent: 2 hours, 34 minutes.

Estimated Total Annual Burden Hours: 769,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 8, 1997

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–772 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

[INTL–656–87]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–656–87 (TD 8701), Treatment of Shareholders of Certain Passive Foreign Investment Companies (§§ 1.1291–9(d) and 1.1291–10(d)).

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, Room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treatment of Shareholders of Certain Passive Foreign Investment Companies.

OMB Number: 1545–1507.

Regulation Project Number: INTL–656–87.

Abstract: The reporting requirements affect United States persons that are direct and indirect shareholders of passive foreign investment companies (PFICs). The requirements enable the Internal Revenue Service to identify PFICs, United States shareholders, and transactions subject to PFIC taxation and verify income inclusions, excess distributions, and deferred tax amounts.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 131,250.

Estimated Time Per Respondent: 46 minutes.

Estimated Total Annual Burden Hours: 100,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 8, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–773 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Confirmation Letter

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning a Confirmation Letter.

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Confirmation Letter.

OMB Number: 1545–1521.

Abstract: It is necessary that the confirmation letter be issued during the testing phase of the program for contracting out collection activities so any problems associated with the contracting out process can be quickly identified. In addition, this information will be used to determine the accuracy of Internal Revenue Service and private vendors' records with regard to taxes due and payments submitted.

Current Actions: There are no changes being made to the confirmation letter at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, Federal Government, and state, local or tribal government.

Estimated Number of Respondents: 225.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 56.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 8, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–774 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Notice 97–12

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 97–12, Electing Small Business Trusts.

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Electing Small Business Trusts.

OMB Number: 1545–1523.

Notice Number: Notice 97–12.

Abstract: This notice provides the time and manner for making the Electing Small Business Trust election to be a shareholder of an S corporation pursuant to Internal Revenue Code section 1361(e)(3).

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 5,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 8, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–775 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Revenue Procedure 96–60

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 96–60, Procedure for filing Forms W–2 in certain acquisitions.

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Procedure for filing Forms W–2 in certain acquisitions.

OMB Number: 1545–1510.

Revenue Procedure Number: Revenue Procedure 96–60.

Abstract: The information is required by the Internal Revenue Service to assist predecessor and successor employers in complying with the reporting requirements under Internal Revenue Code sections 6051 and 6011 for Forms W–2 and 941.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 553,500.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 110,700.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 8, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–776 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 4255

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4255, Recapture of Investment Credit.

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue 1NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Recapture of Investment Credit

OMB Number: 1545–0166

Form Number: Form 4255

Abstract: Internal Revenue Code section 50(a) requires that a taxpayer's income tax be increased by the investment credit recapture tax if the taxpayer disposes of investment credit property before the close of the recapture period used in figuring the original investment credit. Form 4255 provides for the computation of the recapture tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and farms.

Estimated Number of Respondents: 80,000.

Estimated Time Per Respondent: 12 hr., 53 min.

Estimated Total Annual Burden Hours: 1,031,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 30, 1996

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–778 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 1120X

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120X, Amended U.S. Corporation Income Tax Return.

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622 3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Amended U.S. Corporation Income Tax Return.

OMB Number: 1545 0132.

Form Number: 1120X.

Abstract: Domestic corporations use Form 1120X to correct a previously filed Form 1120 or Form 1120 A. The data is used to determine if the correct tax liability has been reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 67,302.

Estimated Time Per Respondent: 17 hr., 7 min.

Estimated Total Annual Burden Hours: 1,151,537.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 30, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–779 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 706–CE

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706–CE, Certificate of Payment of Foreign Death Tax.

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certificate of Payment of Foreign Death Tax.

OMB Number: 1545–0260.

Form Number: 706–CE.

Abstract: Form 706–CE is used by the executors of estates to certify that foreign death taxes have been paid so that the estate may claim the foreign death tax credit allowed by Internal Revenue Code section 2014. The information is used by IRS to verify that the proper credit has been claimed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 2,250.

Estimated Time Per Respondent: 1 hr., 43 min.

Estimated Total Annual Burden Hours: 3,848.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 23, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–780 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 4029

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4029, Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits.

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits.

OMB Number: 1545–0064.

Form Number: Form 4029.

Abstract: Form 4029 is used by members of recognized religious groups to apply for exemption from social security and Medicare taxes under Internal Revenue Code sections 1402(g) and 3127. The information is used to approve or deny exemption from social security and Medicare taxes.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,754.

Estimated Time Per Respondent: 1 hr., 3 min.

Estimated Total Annual Burden Hours: 3,942.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 23, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–781 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 8709

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8709, Exemption From Withholding on Investment Income of Foreign Governments and International Organizations.

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Exemption From Withholding on Investment Income of Foreign Governments and International Organizations.

OMB Number: 1545–1053.

Form Number: Form 8709.

Abstract: This form is used by foreign governments and international organizations, with certain types of investments in the United States, to file with withholding agents to obtain exemption from withholding under Internal Revenue Code section 892. The withholding agent uses the information to determine the appropriate withholding, if any.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 30,000

Estimated Time Per Respondent: 1 hr., 25 min.

Estimated Total Annual Burden Hours: 42,300

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 23, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–782 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 5310–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5310–A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business.

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business

OMB Number: 1545–1225.

Form Number: 5310–A.

Abstract: Internal Revenue Code section 6058(b) requires plan administrators to notify IRS of any plan mergers, consolidations, spinoffs, or transfers of plan assets or liabilities to another plan. Code section 414(r) requires employers to notify IRS of separate lines of business for their deferred compensation plans. Form 5310–A is used to make these notifications.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 15,000.

Estimated Time Per Respondent: 9 hrs., 5 min.

Estimated Total Annual Burden Hours: 136,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 6, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–783 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Forms 5310 and 6088

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5310, Application for Determination Upon Termination, and Form 6088, Distributable Benefits from Employee Pension Benefit Plans.

DATES: Written comments should be received on or before March 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 5310, Application for Determination Upon Termination, and Form 6088, Distributable Benefits from Employee Pension Benefit Plans.

OMB Number: 1545–0202.

Form Number: Forms 5310 and 6088.

Abstract: Employers who have qualified deferred compensation plans can take an income tax deduction for contributions to their plans. Form 5310 is used to request an IRS determination letter about the plan's qualification status (qualified or non-qualified) under Internal Revenue Code section 401(a). Form 6088 is used to show the amounts of distributable benefits to participants in the plan.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations

Estimated Number of Respondents: 30,000.

Estimated Time Per Respondent: 34 hr., 35 min.

Estimated Total Annual Burden Hours: 1,037,700.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 6, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–784 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

[Project no. TIRNO–97–R–00018]

Proposed Establishment of a Federally Funded Research and Development Center

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of intent.

SUMMARY: The Internal Revenue Service (IRS) intends to sponsor a Federally Funded Research and Development Center (FFRDC) to provide system engineering and technical assistance along with strategic advice and guidance. Also required will be technical management capabilities to facilitate the operation and modernization of Tax Systems. The FFRDC will be established under the authority of 48 CFR Subpart 35.017. The FFRDC shall provide technical advice and assistance to the IRS and/or its contractors in the areas of program and project management. This will consist of expert advice/guidance focused on increasing the effectiveness and efficiency of strategic information management and technical activities. The FFRDC will be available for IRS's Chief Information Officer (CIO) or the CIO's designees or Department of the Treasury executive support. Examples of this support may include, but are not limited to the following:—Information Systems (IS) input to business case development—Business Process Analysis—IS management and oversight of IRS contractors—Evaluation of IRS contractors' performance and development of performance measures—Development of recommendations regarding a prime integration contractor—Evaluation of IRS effectiveness—Ad hoc technical advice—Acquisition Support as neccessary. This procurement will not involve a request for proposals. However, expressions of interest and qualification or capability statements should be submitted by interested entities who are capable of fulfilling this requirement. The qualification or capability statements received will be used to select potentially qualified entities, which may at a later date be requested to submit additional information and/or provide an oral presentation as part of a final selection. Please submit comments on this action no later than January 28, 1997. This is the first of three announcements issued under the authority of 48 CAR 5.205 (b).

DATES: The IRS will appreciate receiving qualification or capability statements at your earliest convenience, however, this information must be received within 15 days after the third (3rd) publication of this announcement to be considered.

ADDRESSES: Responses to this notice must be mailed to the Internal Revenue Service, A/C Procurement, Office of End Users Systems Branch, 6009 Oxon Hill Road, Oxon Hill, MD 20745 7th floor/ Constellation Building M:P:I:E

SUPPLEMENTARY INFORMATION: Upon request, a copy of a scope of work for the intended FFRDC will be mailed to any interested party or interested parties can download the information from the IRS Procurement Bulletin Board System (PBBS). Please follow these instructions to access the PBBS, dial the following number (202) 799–0943. Your system must be set at the following defaults: Baud Rate of 9600, No Parity, 8 Data Bits, 1 Stop Bit. The system will prompt you for your name, business name and address, the kind of system you are

using, user ID and a password of your choice. At the Main System Menu the following will appear ''Make your selection (T,F,E, etc....):'' Type ''L'' and press the <ENTER> Key. Type ''S'' to select a library and press the <ENTER> Key. Type *''RFP''* and press the <ENTER> Key. Type ''F'' and press the <Enter> Key to list files. Press the <ENTER> Key to view the list of files. Type ''C'' to view the file list. Download the file *''FFRDC.DOC''*. The system operates 24 hours a day 7 days a week. Send a written request, for a copy of the statement of work, to the contracting officer at the address specified above. No oral communication will be accepted. Qualification or Capability Statement, should be submitted in written form to the Contracting Officer at the address specified above. Responses to this notice should make reference to Project no. TIRNO–97–R–00018.

James A. Williams,

Acting, Assistant Commissioner (Procurement).

[FR Doc. 97–777 Filed 1–10–97; 8:45 am]

BILLING CODE 4830–01–U

Corrections

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Vol. 62, No. 8
Monday, January 13, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 160 and 161

[Docket No. 96–075–1]

Accredited Veterinarians; Optional Digital Signature

Correction

Proposed rule document 97–177 beginning on page 597 was inadvertently published in the Rules and Regulations section of the issue of Monday, January 6, 1997. It should have appeared in the Proposed Rules section.

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

48 CFR Part 216

[DFARS Case 96-D327]

Defense Federal Acquisition Regulation Supplement; MILCON-Environmental Restoration

Correction

In rule document 97–381 appearing on page 1058 in the issue of Wednesday, January 8, 1997 make the following correction:

§216.306 [Corrected]

In the third column, in §216.306(c)(ii)(B)(*2*), in the second line ''that'' should be inserted after ''contracts''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 26140; Amendment No. 25–88]

RIN 2120–AC43

Type and Number of Passenger Emergency Exits Required in Transport Category Airplanes

Correction

In rule document 96–28650, beginning on page 57946, in the issue of Friday, November 8, 1996, make the following corrections:

§ 25.807 [Corrected]

1. On page 57957, in the second column, in § 25.807(f)(2), in the second line, ''the airplane do not'' should read ''the airplane does not''.

2. On the same page, in the same column, in § 25.807(f)(3), in the second line, ''airplanes'' should read ''airplane''.

3. On the same page, in the third column, in § 25.807(g)(7), in the fifth line, ''in'' should read ''is''.

4. On the same page, in the third column, in § 25.807(g)(9), in the first line, ''of'' should read ''or''.

§ 25.810 [Corrected]

5. On page 57958, in the second column, in § 25.810(d)(3), in the fourth line, ''tow'' should read ''two''.

BILLING CODE 1505–01–D

Federal Register

Monday
January 13, 1997

Part II

Department of the Interior

Office of the Secretary

43 CFR Part 10

Native American Graves Protection and Repatriation Act; Interim Rule

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 10

RIN 1024–AC48

Native American Graves Protection and Repatriation Act Regulations—Civil Penalties

AGENCY: Department of the Interior.

ACTION: Interim rule.

SUMMARY: This interim rule relates to one section of regulations implementing the Native American Graves Protection and Repatriation Act of 1990 (''the Act''). This section outlines procedures for assessing civil penalties upon museums that fail to comply with applicable provisions of the Act. Comments on this rule are requested.

DATES: Effective Date: This interim rule becomes effective on February 12, 1997. This interim rule will remain in effect until final regulations are adopted through general notice and comment rulemaking. However, written comments on this interim rule are solicited from Indian tribes, Native Hawaiian organizations, museums, Federal agencies and members of the public. Comments will be taken into account in developing a final rule. The Departmental Consulting Archeologist will accept written comments until April 14, 1997.

ADDRESSES: Comments (2 copies) should be addressed to: Departmental Consulting Archeologist, Archeology and Ethnography Program, National Park Service, Docket No. 1024–AC48, Box 37127, Washington, D.C. 20013–7127, or hand deliver comments to room 210, 800 North Capital Street, Washington, D.C. 20001.

FOR FURTHER INFORMATION CONTACT: Dr. Francis P. McManamon, Departmental Consulting Archeologist, Archeology and Ethnography Program, National Park Service, Box 37127, Washington, DC 20013–7127. Telephone: 202–343–4101. Fax: 202–523–1547.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1990, President George Bush signed the Act into law. The Act addresses the rights of lineal descendants, Indian Tribes, and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony with which they are affiliated. Section 13 of the Act requires the Secretary of the Interior to promulgate regulations to carry out provisions of the Act. Final regulations implementing the Act were published in the Federal Register on December 4, 1995 (60 FR 62158). The final regulations had five sections reserved for later publication. This interim rule includes one section that was reserved in the final regulations. Section 10.12 develops procedures for assessing civil penalties upon museums that fail to comply with provisions of the Act. This section does not apply to Federal agencies. However, Federal agencies are subject to enforcement actions by aggrieved parties under section 15 of the Act.

Section-by-Section Analysis

Section 10.12

Section 9 of the Act authorizes the Secretary of the Interior to assess a civil penalty against any museum that fails to comply with the requirements of this Act. This section defines procedures for assessing those civil penalties.

A ''museum'' is defined at 43 CFR 10.2 (a)(3) as any institution or State or local government agency (including any institution of higher learning) that receives Federal funds and possesses or has control over Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony as defined in 43 CFR 10.2 (d). The phrase ''receives Federal funds'' is defined at 43 CFR 10.2 (a)(3)(iii) to mean the receipt of funds by a museum after November 16, 1990, from a Federal agency through any grant, loan, contract (other than a procurement contract), or other arrangement by which a Federal agency makes or made available to a museum assistance in the form of funds. Federal funds provided for any purpose that are received by a larger entity of which the museum is a part are considered Federal funds for the purposes of these regulations. For example, if a museum is part of a state or local government or private university, and the state or local government or private university received Federal funds for any purpose, the museum is considered to receive Federal funds for purpose of these regulations. Although Federal agencies are not considered ''museums'' for purposes of civil penalties under this section, civil actions may be taken against Federal agencies to compel compliance with the Act in the United States District Courts under section 15 of the Act.

Section 9(b) of the Act identifies some of the criteria to be used by the Secretary in determining the amount of the civil penalty to be assessed. The Secretary has consulted the Native American Graves Protection and Repatriation Review Committee which has recommended that the Secretary use a two stage approach to implementing these criteria. They recommend an initial assessment based upon the sum of three factors: (1) an amount equal to .25% of the museum's annual budget, or $5,000, whichever is less; (2) damages suffered by any aggrieved party or parties, including, but not limited to, the costs of attorney and expert witness fees, investigations, and administrative expenses incurred by the aggrieved parties to compel compliance with the Act; and (3) the importance of the human remains, funerary objects, sacred object, or object of cultural patrimony to performing traditional practices by the aggrieved party or parties. The review committee recognizes that this initial assessment, and in particular that portion based upon the museum's annual budget, might be considered overly modest by some, but emphasizes that civil penalties should be used to ensure compliance instead of simply imposing large penalty amounts. The review committee considers .25% of the museum's annual budget, or $5,000, whichever is less, an amount sufficient to compel compliance without inflicting undue damage, particularly on small institutions. We believe that a monetary standard is useful as it will lessen the need to make more difficult assessment determinations based on archeological, historical, and commercial value. As the law allows for establishment of civil penalties based on other factors as the Secretary considers appropriate, this formula will further the goals of the legislation. We have therefore adopted it. The review committee also recommended assessment of a subsequent penalty amount of $100 per day after the date of the final administrative decision that the museum continues not to comply with the Act. We have also adopted this recommendation. In addition to the above factors, the commercial value of any human remains, funerary object, sacred object, or object of cultural patrimony may be assessed on any museum that, after November 16, 1990, sells or otherwise transfers such object in violation of the Act. The review committee also recommends that the Secretary double the penalty amount for subsequent failures to comply. We have included the number of violations that have occurred as a criterion in determining the penalty amount. The Secretary gave the review committee's recommendations careful consideration in developing the procedures outlined in this interim rule.

The administrative procedures for providing notice, holding a hearing, appealing an administrative decision, and issuing a final administrative decision are patterned after the procedures currently used in assessing civil penalties under the Archaeological Resources Protection Act. As a matter of general policy, the Secretary does not intend to institute civil penalty actions under this section for violations which occurred before the effective date of these regulations if the museum in question made a good faith effort to comply with the basic requirements of the Act.

Administrative Procedures Act

The Secretary of the Interior has determined under 5 U.S.C. 553 (b)(B) and 318 DM 6.4 (B)(1) that it is not in the public interest to delay the effective date of this regulation to accommodate notice and comment procedures. There are three reasons for this decision:

(a) The requirements that the Act places upon museums as outlined in section 10.12 (b)(1) of these regulations are generally known and were established by statute in 1990 or by regulation in 1995;

(b) Section 9 of the Act clearly outlines the limits of the Secretary's discretion in enforcing provisions of the Act; and

(c) The administrative procedures for appealing the levy of a penalty as outlined in section 10.12 (e) through (l) closely imitate those already used under the Archaeological Resources Protection Act.

The civil penalty provisions of the Act are intended to assist in the protection and appropriate repatriation of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony that are of extreme importance to lineal descendants, Indian tribes and Native Hawaiian organizations. Loss of such items causes irreparable injury to the lineal descendants, Indian tribes, and Native Hawaiian organizations entitled to their repatriation under the terms of the Act. Delaying implementation of the enforcement procedures of this section to accommodate notice and comment procedures will likely result in further losses or in an inability to remedy, to the extent feasible, losses which have already occurred.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this interim rule to the address noted at the beginning of this rulemaking. The National Park Service will review comments and consider making changes to the rule based upon an analysis of the comments.

If you wish the National Park Service to acknowledge receipt of your comments you must submit with those comments, a self-addressed, stamped postcard that includes the following statement: ''Comments to Docket No 1024–AC48.'' The Departmental Consulting Archeologist will date stamp the postcard and return it to you. The Departmental Consulting Archeologist will consider comments received on or before April 14, 1997 before taking action on a final rule and may change the interim rule contained in this notice in light of the comments received.

Drafting Information

This interim rule was prepared by Dr. Francis P. McManamon (Departmental Consulting Archeologist, National Park Service), Dr. C. Timothy McKeown (NAGPRA Team Leader, National Park Service), and Lars Hanslin (Senior Attorney, Office of the Solicitor), in consultation with the Native American Graves Protection and Repatriation Review Committee as directed by section 8 (c)(7) of the Act.

Paperwork Reduction Act

This interim rule does not contain collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

Compliance With Other Laws

This rule was reviewed by the Office of Management and Budget under Executive Order 12866. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 *et seq.*). The civil penalties are expected to be assessed on only a very small number of museums that have failed to comply with the Act. Civil penalty amounts will be calculated to ensure compliance and not as retribution.

The National Park Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this proposed rule will not impose a cost of $100 million or more in any given year on local, State, or tribal governments or private entities.

The National Park Service has determined that this interim rule will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce non-compatible uses which compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this interim rule is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) has been prepared.

List of Subjects in 43 CFR Part 10

Administrative practice and procedure, Hawaiian Natives, Historic preservation, Indians—Claims, Museums, Reporting and record keeping requirements.

In consideration of the forgoing, 43 CFR Subpart A is amended as follows:

PART 10—NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT REGULATIONS

1. The authority citation for Part 10 continues to read as follows:

Authority: 25 U.S.C. 3001 *et seq.*

2. Part 10 is amended by adding § 10.12 to read as follows:

§ 10.12 Civil Penalties.

(a) *The Secretary's authority to assess civil penalties.* The Secretary is authorized by section 9 of the Act to assess civil penalties on any museum that fails to comply with the requirements of the Act. As used in this section, ''failure to comply with requirements of the Act'' also means failure to comply with applicable portions of the regulations set forth in this part. As used in this section ''you'' refers to the museum or the museum official designated responsible for matters related to implementation of the Act.

(b) *Definition of ''failure to comply''.* (1) Your museum has failed to comply with the requirements of the Act if it:

(i) After November 16, 1990, sells or otherwise transfers human remains, funerary objects, sacred objects, or objects of cultural patrimony in violation of the Act, including, but not limited to, an unlawful sale or transfer

to any individual or institution that is not required to comply with the Act; or

(ii) After November 16, 1993, has not completed summaries as required by the Act; or

(iii) After November 16, 1995, or the date specified in an extension issued by the Secretary, whichever is later, has not completed inventories as required by the Act; or

(iv) After May 16, 1996, or six months after completion of an inventory under an extension issued by the Secretary, whichever is later, has not notified culturally affiliated Indian tribes and Native Hawaiian organizations; or

(v) Refuses to repatriate human remains, funerary object, sacred object, or object of cultural patrimony to a lineal descendant or culturally affiliated Indian tribe or Native Hawaiian organization pursuant to the requirements of the Act; or

(vi) Repatriates human remains, funerary object, sacred object, or object of cultural patrimony before publishing a notice in the Federal Register as required by the Act.

(2) Each violation will constitute a separate offense.

(c) *How to notify the Secretary of a failure to comply.* (1) Any person may bring an allegation of failure to comply to the attention of the Secretary.

(2) The Secretary may take the following steps upon receiving such an allegation:

(i) Review the alleged failure to comply;

(ii) Identify the specific provisions of the Act which allegedly have not been complied with;

(iii) Determine if the institution of a civil penalty action is in the public interest in the circumstances; and

(iv) If appropriate, estimate the proposed penalty.

(d) *How the Secretary determines the penalty amount.* (1) The penalty amount will be .25% of your museum's annual budget, or $5000, whichever is less, and, such additional sum as the Secretary may determine is appropriate after taking into account:

(i) The archeological, historical, or commercial value of the human remains, funerary object, sacred object, or object of cultural patrimony involved including, but not limited to, consideration of their importance to performing traditional practices; and

(ii) The damages suffered, both economic and non-economic, by the aggrieved party or parties including, but not limited to, the costs of attorney and expert witness fees, investigations, and administrative expenses related to efforts to compel compliance with the Act; and

(iii) The number of violations that have occurred.

(2) An additional penalty of $100 per day after the date the final administrative decision takes effect if your museum continues to violate the Act.

(3) The Secretary may reduce the penalty amount if there is:

(i) A determination that you did not willfully fail to comply; or

(ii) An agreement by you to mitigate the violation, including, but not limited to, payment of restitution to the aggrieved party or parties; or

(iii) A demonstration of hardship or inability to pay, provided that this factor will only apply when you have not been previously found to have failed to comply with the regulations in this part; or

(iv) A determination that the proposed penalty would constitute excessive punishment under the circumstances.

(e) *How the Secretary notifies you of a failure to comply.* (1) If the allegations are verified, the Secretary serves you with a notice of failure to comply either by personal delivery or by registered or certified mail (return receipt requested). The notice includes:

(i) A concise statement of the facts believed to show a failure to comply;

(ii) A specific reference to the provisions of the Act and/or the regulations in this part that you have allegedly not complied with;

(iii) The amount of the proposed penalty, including any initial proposal to mitigate or remit where appropriate, or a statement that the Secretary will serve notice of a proposed penalty amount after ascertaining the damages associated with the alleged failure to comply; and

(iv) Notification of the right to file a petition for relief as provided in this section below, or to await the Secretary's notice of assessment and to request a hearing. The notice will also inform you of your right to seek judicial review of any final administrative decision assessing a civil penalty.

(2) The Secretary also sends a copy of the notice of failure to comply to:

(i) Any lineal descendant of a known Native American individual whose human remains or cultural items are in question; and

(ii) Any Indian tribes or Native Hawaiian organizations that are, or are likely to be, culturally affiliated with the human remains or cultural items in question.

(f) *Actions you may take upon receipt of a notice.* If you are served with a notice of failure to comply, you may: (1) Seek informal discussions with the Secretary;

(2) File a petition for relief. You may file a petition for relief with the Secretary within 45 calendar days of receiving the notice of failure to comply (or of a proposed penalty amount, if later). Your petition for relief may request the Secretary to assess no penalty or to reduce the amount. Your petition must be in writing and signed by an official authorized to sign such documents. Your petition must set forth in full the legal or factual basis for the requested relief.

(3) Take no action and await the Secretary's notice of assessment; or

(4) Accept in writing or by payment the proposed penalty, or any mitigation or remission offered in the notice. If you accept the proposed penalty or mitigation or remission, you waive the notice of assessment and the right to request a hearing.

(g) *How the Secretary assesses the penalty.* (1) The Secretary assesses the civil penalty when the period for filing a petition for relief expires, or upon completing the review of any petition filed, or upon completing informal discussions, whichever is later.

(2) The Secretary considers all available information, including information provided during the process of assessing civil penalties or furnished upon further request by the Secretary.

(3) If the facts warrant a conclusion that you have not failed to comply, the Secretary notifies you that you will have no penalty assessed.

(4) If the facts warrant a conclusion that you have failed to comply, the Secretary may determine a penalty according to the standards in paragraph (d) of this section.

(5) The Secretary notifies you of the penalty amount assessed by serving a written notice of assessment, either in person or by registered or certified mail (return receipt requested). The notice of assessment includes:

(i) The facts and conclusions from which the Secretary determined that you have failed to comply;

(ii) The basis for determining the penalty amount assessed and/or any offer to mitigate or remit the penalty; and

(iii) Notification of the right to request a hearing, including the procedures to follow, and to seek judicial review of any final administrative decision assessing a civil penalty.

(h) *How you request a hearing.* (1) You may file a written, dated request for a hearing on a notice of assessment with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard,

Arlington, Virginia 22203–1923. You must enclose a copy of the notice of failure to comply and a copy of the notice of assessment. Your request must state the relief sought, the basis for challenging the facts used as the basis for determining the failure to comply and fixing the assessment, and your preference as to the place and date for a hearing. You must serve a copy of the request upon the Solicitor of the Department of the Interior personally or by registered or certified mail (return receipt requested) at the address specified in the notice of assessment. Hearings will take place following procedures set forth in 43 CFR part 4, subparts A and B.

(2) Your failure to file a written request for a hearing within 45 days of the date of service of a notice of assessment waives your right to a hearing.

(i) *Hearing appearance and practice.* (1) Upon receiving a request for a hearing, the Hearings Division assigns an administrative law judge to the case, gives notice of assignment promptly to the parties, and files all pleadings, papers, and other documents in the proceeding directly with the administrative law judge, with copies served on the opposing party.

(2) Subject to the provisions of 43 CFR 1.3, you may appear by representative, or by counsel, and may participate fully in those proceedings. If you fail to appear and the administrative law judge determines this failure is without good cause, the administrative law judge may, in his/her discretion, determine that this failure waives your right to a hearing and consent to the making of a decision on the record.

(3) Departmental counsel, designated by the Solicitor of the Department, represents the Secretary in the proceedings. Upon notice to the Secretary of the assignment of an administrative law judge to the case, this counsel must enter his/her appearance on behalf of the Secretary and files all petitions and correspondence exchanges by the Secretary and the respondent which become part of the hearing record. Thereafter, you must serve all documents for the Secretary to his/her counsel.

(4) Hearing administration. (i) The administrative law judge has all powers accorded by law and necessary to preside over the parties and the proceedings and to make decisions under 5 U.S.C. 554–557.

(ii) The transcript of testimony, the exhibits, and all papers, documents and requests filed in the proceedings constitute the record for decision. The administrative law judge renders a written decision upon the record, which sets forth his/her findings of fact and conclusions of law, and the reasons and basis for them, and an assessment of a penalty, if any.

(iii) Unless you file a notice of appeal described in the regulations in this part, the administrative law judge's decision constitutes the final administrative determination of the Secretary in the matter and takes effect 30 calendar days from this decision.

(iv) In this hearing, the amount of civil penalty assessed will be determined in accordance with paragraph (d) of this section, and will not be limited by the amount assessed by the Secretary or any offer of mitigation or remission made by the Secretary.

(j) *How you appeal a decision.* (1) Either you or the Secretary may appeal the decision of an administrative law judge by filing a ''Notice of Appeal'' with the Director, Office of Hearings and Appeals, U.S. Department of Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203–1923, within 30 calendar days of the date of the administrative law judge's decision. This notice must be accompanied by proof of service on the administrative law judge and the opposing party.

(2) Upon receiving this notice, the Director, Office of Hearings and Appeals, appoints an ad hoc appeals board to hear and decide an appeal. To the extent they are not inconsistent with the regulations in this part the provision of the Department of Hearings and Appeals Procedures in 43 CFR part 4, subparts A, B, and G apply to such appeal proceedings. The appeal board's decision on the appeal must be in writing and takes effect as the final administrative determination of the Secretary on the date it is rendered, unless otherwise specified in the decision.

(3) You may obtain copies of decisions in civil penalty proceedings instituted under the Act by sending a request to the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203–1923. Fees for this service are established by the Director of that Office.

(k) *The final administrative decision.* (1) When you have been served with a notice of a failure to comply and have accepted the penalty as provided in the regulations in this part, the notice constitutes the final administrative decision;

(2) When you have been served with a notice of assessment and have not filed a timely request for a hearing as provided in the regulations in this part, the notice of assessment constitutes the final administrative decision.

(3) When you have been served with a notice of assessment and have filed a timely request for a hearing as provided in these regulations in this part, the decision resulting from the hearing or any applicable administrative appeal from it constitutes the final administrative decision.

(l) *How you pay the penalty.* (1) If you are assessed a civil penalty, you have 45 calendar days from the date of issuance of the final administrative decision to make full payment of the penalty assessed to the Secretary, unless you have filed a timely request for appeal with a court of competent jurisdiction.

(2) If you fail to pay the penalty, the Secretary may request the Attorney General to institute a civil action to collect the penalty in the U.S. District Court for the district in which your museum is located. Where the Secretary is not represented by the Attorney General, the Secretary may start civil action directly. In these actions, the validity and amount of the penalty will not be subject to review by the court.

(3) Assessing a penalty under this section is not a waiver by the Secretary of the right to pursue other available legal or administrative remedies.

Dated: November 5, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97–653 Filed 1–10–97; 8:45 am]

BILLING CODE 4310–70–P

Federal Register

Monday
January 13, 1997

Part III

Department of Eduction

Postsecondary Education; State Student Incentive Grant Program; Notice

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; State Student Incentive Grant Program

AGENCY: Department of Education.

ACTION: Notice of the closing date for receipt of State applications for fiscal year 1997.

SUMMARY: The Secretary of Education (Secretary) gives notice of the closing date for receipt of State applications for fiscal year 1997 funds under the State Student Incentive Grant (SSIG) Program. This program, through matching formula grants to States for student awards, provides grants to students with substantial financial need. The SSIG Program supports Goals 2000, the President's strategy for moving the Nation toward the National Education Goals, by enhancing opportunities for postsecondary education. The National Education Goals call for increasing the rate at which students graduate from high school and pursue high quality postsecondary education.

A State that desires to receive SSIG funds for this fiscal year must have an agreement with the Secretary as provided under section 1203(a) of the Higher Education Act of 1965, as amended (HEA). The State must submit an application through the State agency that administered its SSIG Program as of July 1, 1985, unless the Governor has subsequently designated, and the Secretary has approved, a different State agency.

The Secretary is authorized to accept applications from the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Republic of Palau. Authority for this program is contained in sections 415A through 415E of the HEA. (20 U.S.C. 1070c–1070c–4.)

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: An application for fiscal year 1997 SSIG funds must be mailed or hand-delivered by March 31, 1997.

APPLICATION FORM: The required application form for receiving SSIG funds will be mailed to officials of the appropriate State agency in each State at least 30 days before the closing date. Applications must be prepared and submitted in accordance with the HEA and the program regulations cited in this notice. The Secretary strongly urges that applicants only submit information that is requested.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to: Mr. Fred Sellers, Chief, Grants Branch, Room 3045, ROB–3, U.S. Department of Education, Student Financial Assistance Programs, 600 Independence Avenue, S.W., Washington, D.C. 20202–5447.

The Secretary will accept the following proof of mailing: (1) a legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice, or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service. The Department of Education encourages applicants to use certified or at least first-class mail.

A late applicant cannot be assured that its application will be considered for fiscal year 1997 funding.

APPLICATIONS DELIVERED BY HAND: An application that is hand-delivered must be taken to Mr. Fred Sellers, U.S. Department of Education, Student Financial Assistance Programs, 7th and D Streets, S.W., Room 3045, General Service Administration Regional Office Building #3, Washington, D.C. Hand-delivered applications will be accepted between 8:00 a.m. and 4:30 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

PROGRAM INFORMATION: Section 415C(a) of the HEA requires that an annual application be submitted for a State to receive SSIG funds. In preparing the application, each State agency should be guided by the table of allotments provided in the application package.

State allotments are determined according to the statutorily mandated formula under section 415B of the HEA and are not negotiable. A State may also request its share of reallotment, in addition to its basic allotment, which is contingent upon the availability of such additional funds.

In fiscal year 1996, 49 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Island (Palau), and the Commonwealth of the Northern Mariana Islands received funds under the SSIG Program.

APPLICABLE REGULATIONS: The following regulations are applicable to the SSIG Program:

(1) The SSIG Program regulations in 34 CFR Part 692.

(2) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75.60 through 75.62 (Ineligibility of Certain Individuals to Receive Assistance), Part 76 (State-Administered Programs), Part 77 (Definitions that Apply to Department Regulations), Part 79 (Intergovernmental Review of Department of Education Programs and Activities), Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), Part 82 (New Restrictions on Lobbying), Part 85 (Governmentwide Debarment and Suspension (Nonprocurement), and Governmentwide Requirements for Drug-Free Workplace (Grants)), and Part 86 (Drug-Free Schools and Campuses).

(3) The regulations in 34 CFR Part 604 that implement section 1203 of the HEA (Federal-State Relationship Agreements).

(4) The Student Assistance General Provisions in 34 CFR Part 668.

FOR FURTHER INFORMATION CONTACT: For further information contact Mrs. Jackie Butler, Pell and State Grant Section, U.S. Department of Education, Student Financial Assistance Programs, Washington, D.C. 20202–5447; telephone (202) 708–4607. Individuals who use a telecommunications device for the deaf may call the Federal Information Relay Service at 1–800–730–8913 between 9 a.m. and 8 p.m., Eastern time, Monday through Friday.

(20 U.S.C. 1070c–1070c–4.)

(Catalog of Federal Domestic Assistance Number 84.069, State Student Incentive Grant Program.)

Dated: January 7, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–736 Filed 1–10–97; 8:45 am]

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Federal Register

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
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10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
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42 Parts:			
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●400–429	(869–028–00164–5)	34.00	Oct. 1, 1996
●430–End	(869–026–00165–1)	39.00	Oct. 1, 1995
43 Parts:			
●1–999	(869–028–00166–1)	30.00	Oct. 1, 1996
●1000–3999	(869–026–00167–7)	31.00	Oct. 1, 1995
4000–End	(869–026–00168–5)	15.00	Oct. 1, 1995
●**44**	(869–026–00169–3)	24.00	Oct. 1, 1995
45 Parts:			
●1–199	(869–028–00169–6)	28.00	Oct. 1, 1996
200–499	(869–028–00170–0)	14.00	[6] Oct. 1, 1995
●500–1199	(869–028–00171–8)	30.00	Oct. 1, 1996
1200–End	(869–026–00173–1)	26.00	Oct. 1, 1995
46 Parts:			
●1–40	(869–026–00174–0)	21.00	Oct. 1, 1995
●41–69	(869–026–00175–8)	17.00	Oct. 1, 1995
*●70–89	(869–028–00175–1)	11.00	Oct. 1, 1996
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●166–199	(869–026–00180–4)	17.00	Oct. 1, 1995
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1996. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.